



New York State Department of Labor Unemployment Insurance Payments to County

Jail Inmates

Report of Examination

Period Covered:

January 1, 2013 — May 19, 2014

2015M-278



Thomas P. DiNapoli

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State of New York Office of the State Comptroller

Division of Local Government and School Accountability

December 2016

Dear Agency Officials:

A top priority of the Office of the State Comptroller is to help State agency, public authority and local government officials manage government resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of State agencies, public authorities and local governments statewide, as well as compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard assets.

Following is a report of our audit, entitled Unemployment Insurance Payments to County Jail Inmates. This audit was conducted pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article II, Section 8 of the State Finance Law.

This audit's results and recommendations are resources for you to use in effectively managing operations and in meeting the expectations of taxpayers. If you have questions about this report, please feel free to contact us.

Respectfully submitted,

*Office of the State Comptroller
Division of Local Government
and School Accountability*



State of New York Office of the State Comptroller

EXECUTIVE SUMMARY

Unemployment Insurance (UI) is a benefit program offered in New York that provides temporary income to eligible workers who lose their jobs through no fault of their own. The New York State Department of Labor (NYSDOL) administers this benefit program. To be eligible for UI benefits, an individual must be ready, willing and able to work and have earned sufficient wages in covered employment.¹ Individuals can apply for UI benefits online or by telephone and, once deemed eligible for UI benefits, must recertify each week to continue receiving weekly payments. An individual's eligibility for UI benefits may change for many reasons, including incarceration. Each county in New York State operates correctional facilities (Jails) to house individuals remanded to the custody of the County Sheriff or the New York City (NYC) Department of Corrections. NYSDOL seeks to suspend UI benefits after an individual is incarcerated.

Monitoring the eligibility of incarcerated individuals can be difficult. Inmates may be incarcerated for short periods because they are awaiting trial or sentencing, or they may be serving short, court-ordered sentences. NYSDOL is provided a biweekly listing of Jail inmates obtained from information submitted by county Jails² and daily data from the NYC Department of Corrections to match to its UI benefit database for identification of potential inappropriate benefits. Without complete, accurate and reliable inmate data, NYSDOL will continue to distribute UI benefits to incarcerated individuals who were reported as available for employment when they were actually imprisoned in a Jail. NYSDOL informed us that, beginning in April 2016, it has contracted to receive weekly inmate files from the Sheriffs' Association for counties outside of NYC.

Scope and Objective

The objective of our audit was to determine if NYSDOL discontinued UI benefit payments to county Jail inmates in a timely manner for the period January 1, 2013 through May 19, 2014. Our audit addressed the following related question:

- Does NYSDOL have the necessary inmate information to monitor county Jail populations effectively for inappropriate UI payments?

¹ Generally, to be eligible for UI benefits an individual must have worked and been paid wages for employment in at least two calendar quarters in their base period and must have met earning requirements. Once deemed eligible for UI benefits, an individual receives a weekly benefit amount. See www.labor.ny.gov for a complete discussion of eligibility requirements. Article 18, Title 7, Section 591 of New York State Unemployment Insurance Law states, "No benefits shall be payable to any claimant who is not capable of work or who is not ready, willing and able to work in his usual employment or in any other for which he is reasonably fitted by training and experience."

² On June 4, 2013, the New York State Sheriffs' Association started sending NYSDOL biweekly files. Prior to that, files were provided on a monthly basis. According to the Sheriffs' Association website, data is collected in almost real time and stored at a central location to allow participating agencies to perform searches.

Audit Results

NYSDOL does not have all the necessary inmate information to monitor county Jail inmate populations effectively for inappropriate UI payments and, as a result, continues to distribute UI benefits to incarcerated individuals. Our audit found that inmate data used by NYSDOL for the purpose of matching and identifying incarcerated individuals receiving UI benefits was incomplete 28 percent of the time for county inmates outside NYC and 55 percent of the time for NYC inmates. In addition, NYSDOL did not receive data from each county in each biweekly file. It is essential that NYSDOL match the records of those receiving UI benefits with inmate population records to ensure inmates do not receive inappropriate benefits while incarcerated. Incomplete records limit NYSDOL's ability to effectively monitor the appropriateness of UI payments to Jail inmates.

Finally, NYSDOL matches UI data to inmate records on a biweekly basis; however, payments are made weekly, thus allowing inappropriate payments to be made prior to the data match. We found inmates at four counties³ received, on average, 1.9 inappropriate payments totaling \$130,122 prior to NYSDOL ceasing UI benefits due to incarceration. We compared 307,368 inmate records⁴ against the UI benefits database, excluding inmates with weekender status⁵ from our analysis, and projected county Jail inmates received potential inappropriate UI payments totaling over \$581,000⁶ while incarcerated.

Comments of Agency Officials

The results of our audit and recommendations have been discussed with NYSDOL officials and their comments, which appear in Appendix B, have been considered in preparing this report. NYSDOL officials generally agreed with the audit conclusions but disagreed with certain findings. Appendix C includes our comments on issues raised in NYSDOL's response.

³ We analyzed detailed payments in Broome, Erie, Monroe and Wyoming counties. See Appendix D for details.

⁴ See Appendix D for details.

⁵ An inmate sentenced to weekend or intermittent Jail time would potentially still be eligible for UI benefits.

⁶ NYSDOL provided the Office of the State Comptroller examiners with files that pertained to investigations it believed legitimized approximately \$35,000 of these payments. However, documentation provided was not detailed enough for the majority of the payments to adequately demonstrate the appropriateness of the claim made by NYSDOL. See Appendix D for additional details.

Introduction

Background

Unemployment Insurance (UI) is a benefit program offered in New York that provides temporary income to eligible workers who lose their jobs through no fault of their own. The funding for UI benefits comes from taxes paid by employers. The New York State Department of Labor (NYSDOL) administers this benefit program, determines the initial eligibility of applicants and monitors the continuing eligibility of recipients. NYSDOL also investigates applicants and recipients for potentially erroneous statements and fraud.

To be eligible for UI benefits, an individual must be ready, willing and able to work and have earned sufficient wages in covered employment.⁷ Article 18, Title 7, Section 591 of New York State Unemployment Insurance Law states, “No benefits shall be payable to any claimant who is not capable of work or who is not ready, willing and able to work in his usual employment or in any other for which he is reasonably fitted by training and experience.” Individuals can apply for UI benefits online or by telephone and, once deemed eligible for UI benefits, must recertify (online or by telephone) each week to continue receiving payments.

UI benefits are generally provided to eligible individuals through weekly payments, paid directly to the individual through direct deposit or an electronic benefit card. If NYSDOL determines an individual is ineligible, future benefit payments are suspended. An individual’s eligibility for UI benefits may change for many reasons, including incarceration. NYSDOL typically seeks to stop UI benefits after a person is incarcerated. However, monitoring an incarcerated individual’s location and eligibility for continuing UI benefits is challenging.

Each county in New York State operates correctional facilities (Jails) to house individuals remanded to the custody of the County Sheriff or the New York City (NYC) Department of Corrections. Inmates may be incarcerated for short periods (less than one year) because they are awaiting trial or sentencing, or they may be serving short, court-ordered sentences. Individuals who are incarcerated in Jails are not ready, willing and able to work and, therefore, are not eligible for UI benefits. Because of frequent changes to an inmate’s benefit

⁷ Generally, to be eligible for UI benefits, an individual must have worked and been paid wages for employment in at least two calendar quarters in their base period and must have met earning requirements. Once deemed eligible for UI benefits, an individual receives a weekly benefit amount. See www.labor.ny.gov for a complete discussion of eligibility requirements.

eligibility status, monitoring the eligibility of incarcerated individuals can be difficult.

NYSDOL has the responsibility for monitoring Jail inmates' eligibility for UI benefits. NYSDOL receives biweekly data on Jail inmates outside of NYC from the New York State Sheriffs' Association (Sheriffs' Association)⁸ and daily data on NYC Jail inmates from the NYC Department of Corrections. NYSDOL staff match this data against NYSDOL's records of those certifying for UI benefits. Records for county Jail inmates outside of NYC are matched on a biweekly basis. Records for NYC Jail inmates are matched daily⁹ when the records contain a valid social security number and monthly when the records lack a social security number. Any matches found by NYSDOL are captured in a report as potential leads for investigation to determine if suspension of UI benefits is appropriate.

In 2013, the Office of the State Comptroller issued an audit report¹⁰ that found 351 county inmates¹¹ received 1,321 UI benefit payments while incarcerated totaling \$324,690. The audit generally found that the inmates received three to four weekly benefit payments prior to NYSDOL's suspension of benefits. However, some inmates received unemployment insurance benefit payments for longer periods.

Additional relevant UI benefit statistics are included in Appendix A.

Objective

The objective of our audit was to determine if NYSDOL discontinued UI benefit payments to county Jail inmates in a timely manner. Our audit addressed the following related question:

- Does NYSDOL have the necessary inmate information to monitor county Jail inmate populations effectively for inappropriate UI payments?

Scope and Methodology

For the period January 1, 2013 through May 19, 2014, we interviewed NYSDOL staff, Sheriff officials and other county staff; reviewed monitoring procedures; obtained and analyzed inmate information from the Sheriffs' Association and county Jails; and determined

⁸ On June 4, 2013, the Sheriffs' Association started sending NYSDOL biweekly files. Prior to that, files were provided on a monthly basis. According to the Sheriffs' Association website, data is collected in almost real time and stored at a central location to allow participating agencies to perform searches. NYSDOL informed us that, beginning in April 2016, it has contracted to receive weekly inmate files from the Sheriffs' Association for counties outside of NYC.

⁹ In May 2014, NYSDOL initiated the process to receive an inmate list on a daily basis from Warren County.

¹⁰ *County Inmates Receiving Inappropriate Benefits While Incarcerated* (2013-MS-1)

¹¹ Excluding inmates who were incarcerated less than five days

whether county Jail inmates received inappropriate UI benefits. We obtained benefit information from NYSDOL and determined whether county Jail inmates received UI benefits during the period of their incarceration. We reviewed UI payment and incarceration matches with NYSDOL staff to determine appropriateness.

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on such standards and the methodology used in performing this audit are included in Appendix D of this report.

**Comments of Agency
Officials and Corrective
Action**

We provided a draft copy of this report to NYSDOL officials for their review and formal comment. Their comments were considered in preparing this report and are attached in their entirety in Appendix B. NYSDOL officials generally agreed with the audit conclusions but disagreed with certain findings. Appendix C includes our comments on issues raised in NYSDOL's response.

Within 90 days after final release of this report, as required by Section 170 of New York State Executive Law, the Commissioner of the Department of Labor shall report to the Governor, the State Comptroller, and the leaders of the Legislature and fiscal committees, advising what steps were taken to implement the recommendations contained herein, and where recommendations were not implemented, the reasons why.

Unemployment Insurance

NYSDOL is responsible for monitoring individuals receiving UI benefits to ensure that only those eligible for benefit payments are receiving payments. Monitoring the eligibility of individuals who become incarcerated is a challenge, as benefit eligibility status can change frequently. If an individual was receiving UI benefits prior to incarceration, NYSDOL must identify the individual's changed status and take action to limit future benefits in a timely manner and recover any inappropriate payments. Therefore, it is essential that NYSDOL match the records of those receiving UI benefits with inmate population records in a timely manner to ensure inmates do not receive inappropriate benefits while incarcerated.

NYSDOL does not have the necessary information to monitor county Jail inmate populations effectively for inappropriate UI benefit payments. We found inmate data used was incomplete 28 percent of the time for county Jail inmates outside of NYC and 55 percent of the time for NYC inmates. In addition, NYSDOL did not receive data from each county in each biweekly data file. Finally, while NYSDOL performs a data match on a biweekly basis for county Jail inmates outside of NYC, payments of UI benefits are made weekly, allowing inappropriate payments to occur prior to the match. Additional analysis of records at four counties (Broome, Erie, Monroe and Wyoming) identified \$130,122 in appropriate payments for the period January 2013 through April 2014. Using the results from these four counties, we project that county inmates received potential inappropriate UI benefit payments totaling \$581,525¹² while incarcerated.

In an effort to reduce the number of potential inappropriate payments being made, NYSDOL informed us that, beginning in April 2016, it contracted to receive weekly inmate files from the Sheriffs' Association for counties outside of NYC.

Complete and Accurate Records

Monitoring Jail inmates is a difficult process for NYSDOL. Inmate data can change every day. Generally, Jail inmates are incarcerated less than one year and the length of incarceration varies from a couple of hours to up to 12 months. In addition, an inmate can be sentenced to weekend or intermittent Jail time, which would potentially make

¹² NYSDOL provided the Office of the State Comptroller examiners with files that pertained to investigations it believed legitimized approximately \$35,000 of these payments. However, documentation provided was not detailed enough for the majority of the payments to adequately demonstrate the appropriateness of the claim made by NYSDOL. See Appendix D for additional details.

them eligible for UI benefits. In order for NYSDOL to control inappropriate UI benefits prior to payment, knowledge of the change in eligibility for an incarcerated individual is necessary. NYSDOL must receive complete and accurate information on Jail inmates in order to determine whether to suspend UI benefits.

NYSDOL does not have complete and accurate inmate records; therefore, its ability to effectively monitor the appropriateness of UI payments to Jail inmates is limited. We summarized 384,332 Sheriffs' Association records¹³ provided to us based on social security number, name and date of birth. Of the resulting 90,147 summarized records,¹⁴ we found 25,247 records (or 28 percent) did not include complete inmate information. We also reviewed 79,044 NYC records¹⁵ provided to NYSDOL for the period April 20, 2014 through April 26, 2014 and found that 43,462 (55 percent) were incomplete based on incomplete, invalid or lack of social security numbers. NYC and county Jails ask for personal information from inmates when entering the Jail. However, inmates may, purposely or inadvertently, provide erroneous or incomplete personal information.

NYSDOL relies on the NYC Department of Corrections and the Sheriffs' Association for county inmate data. We reviewed 25 files¹⁶ provided by the Sheriffs' Association to NYSDOL to ensure that data was included from each county. However, NYSDOL did not receive data from each county in each file. For example, of the 56 counties expected to be included in each file,¹⁷ the June 14, 2013 file included data from only 51 counties. The five counties excluded were Chemung, Chenango, Dutchess, Onondaga and Nassau. Based on our review of the 25 files, data was missing from Dutchess County (eight files), Genesee County (nine files) and eight other counties (one file each). In addition, Nassau County's data was not included in any of the data files. NYSDOL officials told us at the start of the audit that they were aware of the missing data and were working to obtain the information going forward. Incomplete data puts NYSDOL at a disadvantage for monitoring eligibility status, making it difficult to identify those receiving inappropriate benefit payments.

¹³ The following fields are included in the data file: name, date of birth, social security number, gender, inmate number, booking date, scheduled release date, status, height, weight, hair color, eye color, state and agency.

¹⁴ For comparison purposes, individuals that had multiple bookings during the audit period were included as only one record.

¹⁵ The NYC daily file contains the following data used for matching: admit date, facility, booking number, projected discharge date, discharge date, discharge reason, date of birth, name, social security number and incarceration date.

¹⁶ Five files were monthly and the other 20 files were biweekly.

¹⁷ The counties expected to be in the file are all 62 counties in New York excluding the five counties in NYC and Schoharie. Schoharie's data is included in the county where the inmates are physically incarcerated.

Finally, inmate data sent to NYSDOL does not always identify inmates that are on weekend or intermittent status who would potentially be eligible for UI benefits. We analyzed data reported by the Jails in four counties (Broome, Erie, Monroe and Wyoming) and corresponding NYSDOL data to more accurately identify inmates with weekender or intermittent status.¹⁸ Of the \$245,221 in UI benefit payments made to inmates based on our data match, 53 percent of the payments totaling \$130,122 were inappropriate. The remaining \$115,099 of payments (47 percent) were appropriately paid to inmates with weekender or intermittent status in the four counties.

Figure 1: Weekender Status Analysis for January 2013 through April 2014

County	Inappropriate Payments	Eligible Weekender Payments	Total Payments ^a
Broome	\$12,907	\$4,106	\$17,013
Erie	\$62,144	\$19,175	\$81,319
Monroe	\$50,784	\$82,773	\$133,557
Wyoming	\$4,287	\$9,045	\$13,332
Total	\$130,122	\$115,099	\$245,221
Percent of Total	53.06%	46.94%	

^a The original match of \$257,892 was adjusted by \$12,670 after further review of details related to payments of unmatched last names, for an adjusted total of \$245,221.

Without developing a process to gather complete and accurate information that NYSDOL can use to match Jail inmates and UI recipient data files to identify and prevent erroneous UI benefit payments, NYSDOL will continue to distribute these benefits to incarcerated individuals who fraudulently certified as available for employment when they were actually imprisoned in a Jail.

Timeliness of Suspension of Benefits

To limit the payment of inappropriate UI benefits, NYSDOL must identify the change in eligibility for an incarcerated individual and then suspend the payment of UI benefits for further investigation. However, because UI benefit payments are weekly, NYSDOL officials must identify the change in eligibility in a timely manner to control inappropriate payments.

We analyzed payments made to inmates at four county Jails, excluding inmates with weekender or intermittent status, to determine the number of inappropriate payments made.¹⁹ We found that NYSDOL

¹⁸ See Appendix D for more information on our methodology.

¹⁹ The biweekly matching process for the Broome, Erie, Monroe and Wyoming County Jails is based on social security numbers. For records that do not have social security numbers, a name and date of birth match is conducted on a monthly basis. Audit test results combine both social security and name and date of birth matches.

generally suspended UI benefits after the biweekly matching process occurred, with 1.9 weekly payments made on average per incarcerated claimant (Figure 2). Specifically, 292 of the 354 claimants (82 percent) were paid either one or two UI benefit payments. The remaining 62 claimants (18 percent) received UI benefits for longer periods.

County	Inappropriate Payments Made	Number of Payments	Number of Claimants	Average Number of Payments Per Claimant
Broome	\$12,907	72	28	2.6
Erie	\$62,144	297	167	1.8
Monroe	\$50,784	260	150	1.7
Wyoming	\$4,287	30	9	3.3
Total	\$130,122	659	354	1.9

Although this indicates that the biweekly match done by NYSDOL is generally working, it still allows inappropriate payments to occur.

Because NYSDOL continued to make UI benefit payments to county Jail inmates after incarceration, we projected the total potential inappropriate UI benefits paid to all inmates for the period of incarceration.²⁰ We calculated that these inappropriate payments totaled \$581,525.

	NYC	Four Counties ^a	All Other Counties	Total
Total UI Payments Matched to Inmate Files	\$315,291 ^b	\$257,892	\$440,958 ^c	\$1,028,096
Less Adjustment for Payments Reconciled with NYSDOL	\$70,469	\$12,670	\$51,645	
Percentage of Inappropriate Payments ^d		53.0629%	53.0629%	
Projected Potential Inappropriate Payments	\$244,822	\$130,122	\$206,581	\$581,525

^a Broome, Erie, Monroe and Wyoming counties
^b Total payments of \$319,596 less \$4,305 reconciled with NYSDOL
^c Total payments of \$450,608 less \$9,650 in errors reconciled with NYSDOL
^d See Figure 1 for basis of percentage.

We calculated this projection by first conducting a data match of 307,368 inmate records against the UI database, which identified over \$1 million in potentially inappropriate UI benefits. An adjustment was made for payments that were reconciled with NYSDOL and deemed appropriate.²¹ We then used analysis results from the four counties²²

²⁰ See Appendix D for more information on our methodology.

²¹ Ibid.

²² The four counties accounted for \$257,892 or 36 percent of all originally calculated inappropriate payments made to inmates in counties outside of NYC. See Figure 1.

to project potential inappropriate findings, as the Jail files in counties outside NYC did not consistently provide information regarding an inmate's weekend or intermittent status. As shown in Figure 1, we found that 53 percent of all potential findings were inappropriate for the four counties. Based on these results, if similar conditions exist across all other counties outside NYC, total inappropriate UI payments for the counties outside NYC would be \$206,581. We projected the NYC payments in the original data match as inappropriate (less one case which was reconciled with NYSDOL) because NYC sends records, including weekender status, to NYSDOL on a daily basis. As a result, the total projected inappropriate UI benefit payments including NYC is \$581,525.

Options for recovering inappropriate payments are limited. NYSDOL officials were unable to provide a total dollar amount owed for inappropriate payments due to incarceration, but indicated that these would be collected similarly to other inappropriately paid benefits. Future benefit payments, if available, may be offset to recover inappropriate payments or a formal collection process may ensue. Further, NYSDOL officials explained that an offset to tax refunds or garnishments is not always possible depending on an individual's employment or incarceration status. As a result, collection letters are repeatedly used and debt may remain outstanding for 10 years before it is declared uncollectible.²³

Recommendations

NYSDOL officials should:

1. Work with the Sheriffs' Association or county Jails to obtain accurate and complete inmate data, including the status of weekend and intermittent inmates.
2. Continue to improve monitoring efforts to stop inappropriate UI payments.
3. Continue to strive for ways to obtain better data.

²³ A filed judgment will remain in effect for 20 years.

APPENDIX A

RELEVANT UNEMPLOYMENT INSURANCE STATISTICS

Figure 4: Monthly Program and Financial Data for 2013

Date	No. of Initial Claims	No. First Payments Made	No. of Weeks Claimed	No. of Weeks Compensated	Average Weekly Benefit ^a	Total Benefits Paid	No. of Final Payments
1/31/2013	131,826	67,347	1,203,128	1,087,298	\$307.07	\$317,260,268	24,239
2/28/2013	93,969	56,594	1,137,905	996,618	\$307.62	\$292,829,827	20,439
3/31/2013	96,292	46,650	1,240,030	977,186	\$307.88	\$289,201,365	23,155
4/30/2013	98,176	44,851	1,019,656	1,048,891	\$307.94	\$307,141,488	23,845
5/31/2013	83,265	38,991	868,840	787,922	\$311.39	\$231,901,095	21,975
6/30/2013	100,194	36,547	979,255	743,954	\$310.07	\$218,173,161	20,590
7/31/2013	106,991	58,979	1,020,802	989,368	\$304.91	\$287,037,258	23,271
8/31/2013	84,240	47,180	929,555	832,602	\$304.27	\$241,181,384	19,207
9/30/2013	81,596	42,217	988,347	827,874	\$308.28	\$241,177,662	21,027
10/31/2013	86,651	38,169	801,786	747,214	\$312.18	\$220,330,773	19,656
11/30/2013	87,237	40,135	819,123	723,725	\$309.28	\$211,393,728	17,857
12/31/2013	146,790	51,985	1,137,079	998,273	\$309.74	\$293,120,121	22,088
TOTALS	1,197,227			10,760,925	\$308.39	\$3,150,748,130	

^a Average weekly benefit for weeks of total unemployment

Figure 5: Monthly Program and Financial Data for 2014, through April 2014

Date	No. of Initial Claims	No. First Payments Made	No. of Weeks Claimed	No. of Weeks Compensated	Average Weekly Benefit ^a	Total Benefits Paid	No. of Final Payments
1/31/2014	111,877	63,605	1,073,295	948,705	\$309.75	\$279,248,554	20,910
2/28/2014	100,564	54,134	1,044,722	927,928	\$307.73	\$271,617,031	17,377
3/31/2014	80,580	43,310	1,152,251	991,301	\$305.85	\$291,443,355	20,677
4/30/2014	97,545	35,746	862,900	808,529	\$304.94	\$234,723,909	18,220
TOTALS	390,566			3,676,463	\$307.07	\$1,077,032,849	

^a Average weekly benefit for weeks of total unemployment

APPENDIX B

RESPONSE FROM AGENCY OFFICIALS

The NYSDOL officials' responses to this audit can be found on the following pages.

Mrs. Roberta Reardon

Commissioner

New York State Department of Labor

Harriman State Office Campus
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August 12, 2016

Ann C. Singer
Chief Examiner
Office of the State Comptroller
44 Hawley Street - Suite 1702
Binghamton, NY 13901-4417

Dear Ms. Singer:

This is in response to your letter dated June 22, 2016, regarding the UI Payments to County Jail Inmate Draft Report 2015M-278. Your draft report summarized the findings from your office's ongoing examination of improper Unemployment Insurance (UI) Benefit payments granted to county inmates from January 1, 2013 through May 19, 2014.

Your report notes that you compared inmate records against the UI benefits database, excluding weekender status from your analysis for four counties of the sixty-two counties and then projected the amount of improper UI payments received by county jail inmates while incarcerated across the remaining state inmate population. The audit method utilized to arrive at a general state-wide conclusion is flawed and inconsistent with accepted audit principles. In addition, the analysis of the few counties that you did conduct had errors which further diminished the value of the analysis. Your report's use of non-random samples as the basis for a projection has significantly increased the amount of sampling risk in the report. Judgmental sampling employed to project results across an entire population is inconsistent with Generally Accepted Government Audit Standards. (§6.64 GAO-12-331G Government Auditing Standards, 2011) and ultimately misleading. As a result of the increased sampling risk, and the other errors in your audit, your conclusion that inappropriate payments were made in the amount of \$585,830 is unfounded.

See
Note 1
Page 18

As for the conduct of the audit itself, OSC was advised of ongoing errors in its conclusions. In response, OSC corrected numerous errors in nearly 50% of its work. However, the findings in the draft report are still based on some inappropriate matches. Two outstanding uncorrected examples in the report are the cases of Naheem S. and Daniel O where the Department pointed out that identities were misused by the prisoners and they did not receive improper payments. Both cases are included in your audit as examples of improper payments.

See
Note 2
Page 18

See
Note 3
Page 18



In addition, OSC auditors have inexplicably concluded that a person with the last name Thomas is the same as a person with the last name Thompson because it could be a spelling error. They have also wrongly matched an individual with the initials SP to an individual with the initials JC based on an unverified social security number. The audit amount also erroneously includes people who were incorrectly matched because they shared a common name with another individual.

See
Note 4
Page 19

See
Note 5
Page 19

That you have taken a small, non-random selection of counties, left uncorrected errors in your draft report and used that unreliable data to project an amount of improper payments statewide is not only misleading to the reader but fundamentally misses an opportunity to define and solve a problem we agree exists: inmates provide incorrect personal information to their jailers and jail personnel will at times provide inaccurate or incomplete information to the Department.

See
Note 1 and 2
Page 18

Whatever the cause of the problem, the size of the problem is quite small. During the time period covered by your report, the Department processed nearly 1.59 million benefit payments, totaling nearly \$4.2 billion dollars. The errors mentioned in the draft report – assuming their accuracy -- amount to 0.0139% of all benefit payment dollars processed by the Department.

As for the systemic problem, it is helpful to note that at the beginning of this audit, OSC auditors committed to assisting the Department in obtaining jail records from uncooperative county jails. As your audit relates, OSC was no more successful than the Department in securing complete and accurate inmate records.

For many years, the New York State Department of Labor (NYSDOL) has been a nationwide leader in developing systems to prevent payments to jailed individuals. The Department has been constantly implementing new systems as well as expanding existing systems to improve its capabilities. The Department has continued to implement successful strategies to further detect and reduce improper UI payments to inmates. Steps completed or underway include the following:

1. Ever since it began its groundbreaking partnerships with the New York State Sheriff's Association and with the New York City Department of Corrections, the Department of Labor has been aware of the matching difficulties that arise because jail inmates often do not give their correct social security numbers or any social security number at all. In 2013, this agency developed a new and innovative computer matching system that minimized the impact of bad and missing social security numbers. This program was so effective that during the course of their 2014 audit field work, the OSC auditors requested to use it.
2. Since 2013, the Department has taken many other steps to further enhance its detection of jailed claimants and to prevent payments to them. This includes now receiving weekly files from the New York State Sheriff's Association and a weekly cross match with the Social Security Administration.



Recommendations and Responses:

Comptroller's Recommendation

1. Work with the Sheriffs' Association or County Jails to obtain accurate and complete inmate data, including the status of weekend/intermittent inmates.
3. Continue to strive for ways to obtain better data.

Department's Response

Recommendations #1 and #3 are very similar, as a result responses to both will be provided here.

Over the last four years, the NYSDOL Office of Special Investigations (OSI) has independently implemented creative processes that minimized the number of incarcerated prisoners receiving illegal UI benefits.

A special team of investigative staff explored all circumstances under which prisoners could be identified expediently and benefits placed on hold. For example, we were able to work with the New York City (NYC) correction system to obtain daily downloads of their prison population; we entered into a contract with the New York State (NYS) Sheriff's Association to provide bi-weekly electronic downloads of their prison population. In May 2016 we restructured the bi-weekly contract so that prison population downloads would be received weekly by the NYSDOL. In addition, in 2013, the Department developed and implemented cross matches that were able to detect claimant inmates with missing or wrong social security numbers in the jail files.

As noted above since 2013, the Department has taken many other steps to further enhance its detection of jailed claimants and to prevent payments to them. This includes a weekly cross match with the Social Security Administration. This cross match enables the Department to identify individuals jailed in federal and other states' prisons. Currently, 75% of the claimants who attempt to get benefits for days they are incarcerated are completely blocked.

The most significant problem that still occurs is with counties that do not submit records to the Sheriff's Association. This can result in delayed or missed detection of jailed claimants. There is no further process to receive prisoner information more effective than the one we have developed with both the NYC and NYS County Jails.

Your report failed to fully describe the cause of any incomplete or inaccurate data sent to NYSDOL to prevent benefits from being paid to inmates of jails. As your report noted, monitoring the eligibility of incarcerated individuals is highly challenging. Besides the short or intermittent nature of their incarceration, inmates frequently provide false names and false social security numbers to law enforcement at the time of their arrest.

See
Note 6
Page 19

What your report omits, however, is that each county jail is an independent agency under the supervision of the County Sheriff, and has no incentive to assist the Department of Labor with our mission to protect the integrity of Unemployment Insurance funds. The Department contracts with the Sheriff's Association to obtain data from county jails. While each Sheriff was asked to voluntarily participate in this program, not all counties have agreed. As your audit found, even counties that agreed to provide inmate records to the Sheriff's Association, did not always provide the promised data.



Moreover, jails are under no mandate to correct false records on inmates. Instead, once an inmate is fingerprinted, and a true identity becomes known, jail records are not changed to correct the inaccuracies. Furthermore, jails have no mandate to correctly identify and use the inmates accurate social security number in their records. Without an accurate social security number, (which we use as the primary identifier for a claimant who receives benefits), a correct match to our records is nearly impossible.

Comptroller's Recommendation

2. Continue to improve monitoring efforts to stop inappropriate UI payments.

Department's Response

A special team of investigative staff explored all circumstances under which prisoners could be identified expediently and improper payments prevented. For example, we were able to work with the NYC correction system to provide daily downloads of their prison population, and we entered into the above described contract with the NYS Sheriff's Association to provide bi-weekly electronic downloads of their prison population. This last May, we enhanced the bi-weekly contract so that weekly prison population downloads would be received by the DOL. In addition, in 2013, the Department developed and implemented cross matches that were able to detect claimant inmates with missing or wrong social security numbers in the jail files. There is no further process to receive prisoner information more effective than the ones we have developed with both the New York City and New York State County Jails.

This report should reflect that the Department is performing at a very high level with the records we receive. In fact, it should be noted that the Department was selected by the United States Department of Labor to house the UI Integrity Center of Excellence, and that the Department's procedures in the area of inmate fraud detection have been cited as a model for other states to emulate. This report should highlight that the best solution for the future, as described above, lies in the jails upgrading their processes to ensure their records are complete with minimal errors. The report misses the opportunity for the Comptroller to assist in encouraging these NYC and NYS County Jails to cooperate on a consistent basis.

Thank you for giving us the opportunity to provide response and clarification. If you need anything further, please contact Vince Coyne, Director Fraud Investigations Unit at (914) 997-9328.

Sincerely,

Roberta Reardon
Commissioner

cc: Mario Musolino
Vince Coyne
John Dormin
Donald Filkins
Kathy Kelly-Gervais
Michael Vaccaro



APPENDIX C

OSC COMMENTS ON THE AGENCY'S RESPONSE

Note 1

NYSDOL misinterprets generally accepted government auditing standards (GAGAS) when it asserts that the audit team used judgmental sampling to project results across an entire population. In response to the audit's objective question, our report concluded that NYSDOL did not have the necessary information to monitor county Jail inmate populations effectively for inappropriate UI benefit payments. We made this determination by assessing NYSDOL's internal controls, not by using sampling. The response from NYSDOL indicates that it is generally in agreement with our audit conclusions.

The audit did use judgmental sampling to illustrate the potential effect of not having the necessary information to monitor UI payments weekly. The potential inappropriate payments noted in our report show the possible statewide effect that is a consequence of NYSDOL's lack of obtaining the necessary information. The judgmental sample of the counties selected for further detailed review of weekender and intermittent status was significant, representing over 40 percent of the initial data matches, and was discussed with NYSDOL officials during the course of the audit. The judgmental sample showed that the risks of not having the necessary information were more than theoretical since there were problems with the data used by NYSDOL. The actual total of overpayments may be greater or less than what we projected. However, the sampling methodology used in this report to present perspective on potential overpayments does not violate GAGAS.

Note 2

As explained in Appendix D, we shared our preliminary results with NYSDOL. We then adjusted our estimates of the potential effect of not having the necessary information to monitor UI benefit payments adequately based on provided documentation. During the course of the audit, we provided NYSDOL officials with several opportunities to provide additional documentation to support their assertions that certain cases should be removed from our calculations. We also shared a draft of our final report with NYSDOL on June 22, 2016 and requested a response by August 3, 2016. NYSDOL officials did not provide sufficient documentation to support all their assertions within the response period.

Note 3

Regarding the case of Naheem S., NYSDOL officials emailed details alleging that an inmate was using Naheem's name and social security number as an alias. The email did not include corroborating documentation in support of this allegation. Regarding the case of Daniel O., on August 2, 2016, NYSDOL officials emailed details pertaining to an investigation that was done, including supporting documentation. As a result of our review of this untimely information, we made a change to the report for this case.

Note 4

Regarding the cases of Thomas/Thompson, our detailed analytical review of available data showed that the inmate associated with each case had the same first initial and social security number, but a birth date was not provided for further comparison. Regarding the cases of SP and JC, both names were associated with one social security number, which could be an indication that one is an alias. NYSDOL did not provide any documentation of an investigation other than an email stating that these were two separate individuals. We included these cases as potential inappropriate payments absent definitive support from NYSDOL officials that they were not.

Note 5

There were no cases matched solely on name. When an inmate's social security number was not available, we performed a name and date of birth match. This match used the first three letters of the last name, a first initial and date of birth. We did discuss one case with NYSDOL officials in which they purported the person incarcerated had the same first and last name and date of birth as an individual receiving unemployment benefits. Through email, NYSDOL officials stated the individuals had very similar first and last names and the same date of birth. These cases were not supported by any corroborating evidence of an investigation and were, therefore, not eliminated from the potential overpayments.

Note 6

On page 8, we reported that the incomplete or inaccurate information was because "inmates may, purposely or inadvertently, provide erroneous or incomplete personal information."

APPENDIX D

AUDIT METHODOLOGY AND STANDARDS

To accomplish the objective of our audit, we performed the following procedures:

- We interviewed NYSDOL personnel to determine whether Jails and NYSDOL exchange information regarding inmates to enable the matching of UI benefit recipients to current inmate records.
- We also interviewed NYSDOL personnel to determine the process used for identification of UI benefit payments made to county Jail inmates recertifying for UI benefits while incarcerated.
- To review the appropriateness of UI benefits provided by NYSDOL for inmates incarcerated at county Jails, we obtained county Jail inmate data from 60 county Jails²⁴ totaling 307,368 inmate records and compared over 225,000 inmate records to the NYSDOL UI payment database. We matched Jail records with UI records according to social security number. In addition, we matched the remaining 80,000 inmate records obtained from the county Jails that lacked social security numbers to the NYSDOL UI payment database using name and date of birth. We excluded inmates who were incarcerated less than five days in our testing.
- Our testing included matching the date for the UI benefit claim period to the incarceration period and identifying any benefits claimed that would have been provided while incarcerated. We excluded any inmate sentenced to only weekends in Jail as identified in the Jail files, as UI benefits would generally be appropriate in those cases.
- During preliminary reporting of audit findings to NYSDOL, it was identified that Jail files in counties outside NYC did not consistently provide information regarding an inmate's weekend or intermittent status. As a result, the total UI payments matched to inmate records at this time were ranked and used to select counties for further work. The four counties selected for further testing represented over 40 percent of the total matched records at that time.²⁵
- We gathered additional weekend or intermittent status information from the four county Jails selected (Broome, Erie, Monroe and Wyoming) relating to the inappropriate UI benefit payments found in these counties. If the Jail confirmed the inmate was in weekend or intermittent status for the same time of the weekly UI benefit, the finding was eliminated from the total. We used the results of the testing for the four county Jails (percentage of actual weekenders and intermittent inmates found) to reduce the total data matches to address data deficiencies and better estimate potential inappropriate payments.

²⁴ Of the 62 counties in New York, Albany and Suffolk counties did not provide County inmate data to the Office of the State Comptroller for testing. However, inmate data for these counties were included in the biweekly data provided by the Sheriffs' Association to NYSDOL. As a result, 60 counties provided inmate data for testing. Of these counties, four provided data that was incomplete. For testing, Westchester and Genesee Counties provided inmate data without social security numbers, while Chenango and Ulster Counties provided inmate data that was not for the entire audit period. The NYC Department of Corrections provided NYC data.

²⁵ Test findings for Nassau County were not yet complete at the time of ranking and selection.

We then shared our preliminary audit results for the four counties with NYSDOL officials and they provided feedback on 28 cases totaling \$80,160. NYSDOL officials provided additional information on the status of weekender inmates and we revised the preliminary audit results to address data deficiencies adequately. Based on the evidence provided by NYSDOL officials, we removed \$13,955 (\$9,650 and \$4,305) in reconciling corrections from our calculation of potential inappropriate payments. In addition, we removed \$134,784 in payments that were associated with name mismatches from our calculation of potential inappropriate payments after further review and corroboration with NYSDOL. Our review found that 47 percent of payments were appropriately paid to inmates with weekender or intermittent status in the four counties. We used this percentage to project weekenders and reduced our initial potential inappropriate UI benefit payments by this percentage.

NYSDOL asked our Office to consider the following requests:

- Adjust all finding that are weekenders out of the total, specifically 13 items totaling approximately \$30,000. We recognized the deficiencies in the data provided by the Jails and conducted additional audit work to identify and remove weekenders from the findings of those four counties. As a result, a revised total of audit findings was calculated, as described earlier in the report, to adequately address the data deficiencies. For consistency, this report is using the described projection methodology.
- Adjust 11 findings totaling about \$35,000 out of the total because NYSDOL commented that the findings were wrong. NYSDOL contends that it conducted investigations of these cases, which legitimized the payments. However, the documentation NYSDOL provided was not detailed enough to adequately demonstrate its appropriateness claim, except for one case totaling \$4,305. NYSDOL subsequently provided adequate support prior to the final audit response deadline.
- Adjust two findings totaling about \$5,300 out of the total due to NYSDOL claiming that the individual met with NYSDOL staff or talked to them on the telephone, so the individual could not have been in Jail. The documentation provided by NYSDOL did not provide detail of the identification provided by the individual.
- Adjust errors in the worksheet totaling \$9,649.76 out of the total; these errors were adjusted.
- Adjust all findings that matched on social security number but a different last name (124 inmates totaling about \$153,000). Removal of findings based solely on the last name not matching is not appropriate because of the strong possibility of input errors and the use of an alias. However, upon further analysis and utilization of a data mining tool that allows access to a substantial amount of personal, private and sensitive information to analyze the social security numbers of the specific case files involved, we acknowledge legitimate payments may have been included in the total, and we agreed to eliminate 83 of the 124 cases totaling \$134,784.

We used the generic term Jail to define a county correctional facility, justice center or jail for the purposes of this audit.

We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

APPENDIX E

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