



A REPORT
TO THE
MONTANA
LEGISLATURE

PERFORMANCE AUDIT

*Administration of
Montana's Unemployment
Insurance Program*

Department of Labor and Industry

OCTOBER 2012

LEGISLATIVE AUDIT
DIVISION

12P-01

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PERFORMANCE AUDITS

Performance audits conducted by the Legislative Audit Division are designed to assess state government operations. From the audit work, a determination is made as to whether agencies and programs are accomplishing their purposes, and whether they can do so with greater efficiency and economy.

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

Performance audits are performed at the request of the Legislative Audit Committee which is a bicameral and bipartisan standing committee of the Montana Legislature. The committee consists of six members of the Senate and six members of the House of Representatives.

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October 2012

The Legislative Audit Committee
of the Montana State Legislature:

This is our performance audit of the Administration of Montana's Unemployment Insurance (UI) Program managed by the Unemployment Insurance Division within the Department of Labor and Industry.

This audit report presents recommendations to improve the timeliness of benefit eligibility decisions, and strengthen management controls over the process to collect delinquent UI taxes and overpaid benefits. A written response from the Department of Labor and Industry is included at the end of the report.

We wish to express our appreciation to Department of Labor and Industry personnel for their cooperation and assistance during the audit.

Respectfully submitted,

/s/ Tori Hunthausen

Tori Hunthausen, CPA
Legislative Auditor

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APPOINTED AND ADMINISTRATIVE OFFICIALS

Department of Labor and Industry

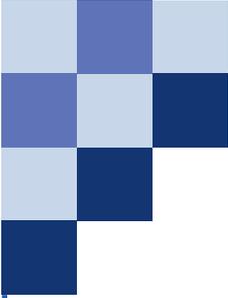
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Roy Mulvaney, Administrator, Unemployment Insurance Division

Sandy Bay, Contributions Bureau Chief

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MONTANA LEGISLATIVE AUDIT DIVISION

PERFORMANCE AUDIT

Administration of Montana's Unemployment Insurance Program

Department of Labor and Industry

OCTOBER 2012

12P-01

REPORT SUMMARY

The Department of Labor and Industry (department) could improve the timeliness of unemployment benefit eligibility decisions by streamlining the claim review process. In addition, improving collection controls would help the department collect millions of dollars in delinquent state unemployment insurance taxes and recover overpaid benefits.

Context

Unemployment insurance (UI) provides benefits to eligible individuals who are out of work through no fault of their own. The Department of Labor and Industry's Unemployment Insurance Division is responsible for administering Montana's UI program. This includes processing claims to determine if individuals meet eligibility requirements to receive unemployment benefits, collecting state unemployment insurance taxes, and collecting overpaid unemployment benefits made to claimants. In fiscal year 2011 state UI tax assessments were approximately \$147 million.

Nationwide, state UI programs have been under pressure due to current economic conditions. Like other states, Montana was impacted by the national recession which began in early 2008. In fiscal year 2011, approximately 115,000 claims were filed and a total of \$278 million in unemployment benefits paid. This included \$168 million of state funded benefits and \$110 million federally funded.

The last several years have seen increases in the amount of delinquent UI state tax and the amount of benefits overpaid to claimants. Between fiscal year 2007 and 2011, the amount of delinquent UI taxes (not including penalties or interest) increased 15 percent from approximately \$3.3 million to over \$3.8 million

with 53 percent remaining uncollected for more than 18 months. During this same time period, the amount of overpaid unemployment benefits grew 204 percent from \$1.7 million to \$5.3 million. Approximately 22 percent of all unrecovered overpaid benefits have gone uncollected for more than 15 months.

Results

Audit work found the department's determination process does not ensure timely eligibility decisions are made. Approximately half of the claim issues reviewed did not meet required federal timelines with the average time to make an eligibility decision taking more than 54 days to complete. Department internal quality control reviews indicated the process has not met required timelines for almost three years. Unresolved claim issues exceeding timelines can create financial hardships on claimants.

We found the department uses an eligibility determination business model that consists of multiple staff collecting and reviewing information during the process. This has created duplication of efforts, delays in resolving claim issues, and untimely benefit eligibility decisions. We recommended the department streamline its eligibility determination process.

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Our audit work determined the department has written off uncollected UI tax with limited management involvement and without referring these funds to Department of Revenue (DOR) for collection assistance. The department does not comply with state policy which has contributed to the growing amounts of delinquent UI taxes and overpaid benefits. The department should establish a formal process to review delinquent UI tax and overpaid benefit accounts and transfer those deemed to be uncollectable to DOR or outside collection agencies.

Our audit identified examples where inconsistent collection activities have occurred for delinquent UI taxes and overpaid benefits. Most collection decisions were at the discretion of individual collectors. We found improvements are needed in department management controls over the collection process.

Recommendation Concurrence	
Concur	5
Partially Concur	0
Do Not Concur	0
Source: Agency audit response included in final report.	

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Chapter I – Introduction

Introduction

Unemployment insurance (UI) is a federal-state partnership created by federal law but administered by individual states under state law. The federal government defines certain requirements such as federal tax rates and establishes broad policy related to UI program administration. State governments are responsible for developing the administrative framework for unemployment insurance programs within their own state. This includes establishing eligibility criteria to receive benefits, procedures for processing UI claims, and establishing state tax rates, and collecting state taxes that fund the program. The Department of Labor and Industry (department) is responsible for administering Montana's unemployment insurance program. The Legislative Audit Committee prioritized a performance audit to examine the department's process to administer unemployment insurance activities.

Audit Objectives and Scope

Based on our initial audit assessment of UI program activities, we developed two audit objectives. To determine if the department:

1. Makes unemployment insurance benefit eligibility decisions that comply with federal timeline requirements.
2. Has controls over collection activities to ensure delinquent state unemployment insurance taxes and overpaid benefits are collected.

Audit work focused on whether the department's claim review process meets required timelines to approve or deny unemployment benefits and controls over the collection of delinquent state UI taxes and benefit overpayments. To complete our audit work, we reviewed UI claim and collection information maintained in a department database called the Montana Integrated System to Improve Customer Service and claim documentation maintained electronically in an imaging database. Our audit work reviewed UI program activities between fiscal years 2007 through 2011 and concentrated on state funded benefits.

Audit Methodologies

To address our objectives, we conducted the following audit work:

- ◆ Reviewed federal and state laws and rules as they relate to the UI program.
- ◆ Reviewed policies and procedures to identify guidance provided to staff.
- ◆ Interviewed management and staff located in Helena and Billings.
- ◆ Interviewed officials from South Dakota and Utah about their UI processes and controls.

- ◆ Examined documentation for a random sample of 26 eligibility determinations to assess timeliness of decisions.
- ◆ Obtained information from the United States Department of Labor (USDOL) regarding federal standards for processing UI claims.
- ◆ Reviewed the department's training curriculum for staff responsible for processing UI claims and making eligibility decisions.
- ◆ Evaluated trends related to the amount of delinquent state UI taxes and overpaid benefits from fiscal years 2007 through 2011.
- ◆ Reviewed documentation for 10 delinquent UI state tax accounts and 10 benefit overpayment accounts.
- ◆ Reviewed three fiscal years (2009 through 2011) of data to evaluate the process to select employers for UI tax field audits.
- ◆ Interviewed Montana Department of Revenue staff about bad debt collection practices.
- ◆ Reviewed numerous reports the department submitted to the USDOL regarding various aspects of the UI program.

Management Memorandum

A management memorandum is a verbal or written notification to an agency for issues that should be considered by management, but do not require a formal agency response. We discussed an issue related to identifying and providing staff training for the benefit eligibility process. This included making better use of department quality control reviews to identify and prioritize staff training to ensure ongoing training needs are addressed.

Unemployment Insurance Division

The Unemployment Insurance Division administers Montana's UI program. The division is authorized approximately 153 FTE and divided into three bureaus with specific responsibilities related to unemployment insurance activities. Each bureau is briefly described below.

- ◆ **Contributions Bureau** – Collects state UI tax from employers. This includes registering employers, determining employer tax rates, overseeing the tax collection process, and conducting employer audits.
- ◆ **Claims Processing Bureau** – Processes UI claims, which includes reviewing and resolving any claim issues that could impact whether individuals are eligible for benefits. In addition, the bureau determines if employers are responsible for paying approved benefits. The bureau has claim processing centers located in Helena and Billings.
- ◆ **Program Support Bureau** – Manages division computer systems and accounting activities. The bureau also conducts quality control reviews of UI claims and benefits and is responsible for collecting overpaid benefits.

Unemployment Insurance Funding

UI benefits and administrative costs are funded through federal and state taxes assessed on Montana employers. Taxes are collected from employers on a quarterly basis and include the following.

Federal Unemployment Tax

Employers are assessed a tax rate of 6.0 percent on the first \$7,000 of wages paid to each employee. A credit against the federal tax is then applied. The maximum amount of the credit is 5.4 percent, meaning the rate after the credit is 0.6 percent. This tax is used to help fund federal and state administrative costs for UI programs, federal benefit extensions, and loans to state UI trust funds if they become insolvent and unable to pay benefits. The federal government is responsible for collecting this tax.

State Unemployment Tax

The department is responsible for collecting state unemployment taxes. In fiscal year 2011, employers paid state unemployment taxes on the first \$26,300 of wages for each employee. This increased to \$27,000 in fiscal year 2012. Section 39-51-1218, MCA, establishes a range of employer tax rates based on an employer's industry type and history of employee layoffs. State unemployment taxes can only be used to pay "regular" state benefits to qualified individuals. All money collected from this tax is deposited into the state's Unemployment Insurance Trust Fund account. The Department collected over \$151 million in calendar year 2011. The balance of the UI Trust Fund on June 30, 2012, was \$136 million. A higher balance in the trust fund can result in lower employer tax rates. Conversely, lower balances can result in higher employer tax rates.

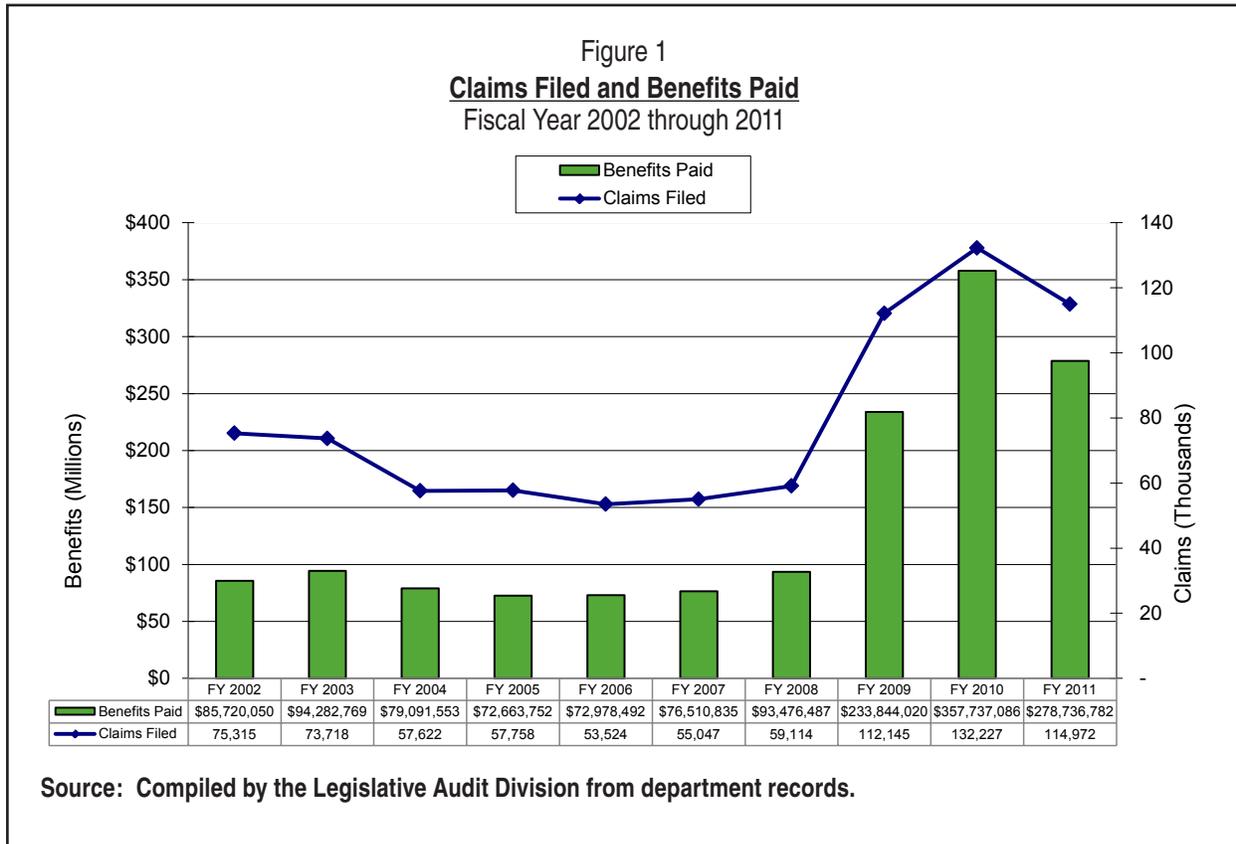
Special Administrative Fund

Section 39-51-404, MCA, establishes a special administrative fund to help pay for various administrative costs. Rates vary from 0.08 percent to 0.18 percent of taxable wages depending on the employer. The UI Division collects this tax in conjunction with state unemployment taxes.

Recession Resulted in Higher Number of Claims Filed and Benefits Paid

Nationwide, state UI programs have been under pressure due to current economic conditions. States have experienced growth in the number of claims and higher workloads in processing these claims. The amount of benefits paid and the length of time individuals are eligible for benefits has also increased. Like other states, Montana was impacted by the national recession which began in early 2008. Therefore, the

department saw steep increases in the number of claims filed and benefits paid beginning in fiscal year 2009. Benefits paid included “regular” state benefits funded through state UI taxes and several federally funded benefit programs approved by Congress, such as emergency unemployment compensation benefits. The following figure illustrates trends for the number of claims filed and benefits paid from fiscal year 2002 through 2011.



As the figure shows, fiscal year 2009 and 2010 saw particularly dramatic increases in the number of claims filed and benefits paid. In fiscal year 2011, claims and benefits paid decreased but still remained above 2009 levels. During this time period, over \$278 million in benefits were paid with approximately \$168 million being state funded and \$110 million being federally funded. Despite these trends and unlike many other states, Montana’s Unemployment Insurance Trust Fund remained solvent even though large number’s of benefits were paid over the last several years.

Department Took Steps to Mitigate Increased Workload

According to department officials, increases in claims and benefits increased department workload and created challenges for the department to provide needed services in an efficient manner. For example, because of the increased number of claims

filed, department officials indicated it was difficult to ensure claim eligibility decisions were made in timely manner. As a result, the department took steps to mitigate these workload challenges. Examples include:

- ◆ Hiring temporary staff to assist individuals with filing claims.
- ◆ Authorizing staff overtime to process claims.
- ◆ Hiring department retirees and using experienced staff from other areas of the department to assist with claim processing.
- ◆ Enhancing on-line claim filing capabilities to the public.

Department officials indicated these steps helped reduce the impact of the additional workload and allowed them to continue to meet certain federal requirements. This included providing claimants and employers the opportunity to respond to claim issues, making decisions to approve or deny benefits based on state law and department policy, and ensuring written decisions communicate how eligibility decisions were made and offer the right to appeal a decision. Our review of department information found the department meets those federal quality standards for processing claims.

Department Business Processes Can Be Strengthened

Although the department took steps to mitigate the effects of increased claim and benefit activity, audit work identified business practices that can be strengthened. We found the department could improve the timeliness in which it makes claim eligibility decisions, and strengthen management controls over delinquent UI tax and overpaid benefit collections. Improving controls in these areas could assist claimants and employers when working with the UI program. The following chapters discuss these issues in more detail and present recommendations to improve processes and controls.

Chapter II – Streamlining the Benefit Eligibility Determination Process

Introduction

Unemployment insurance (UI) provides benefits to individuals who become unemployed through no fault of their own. When claimants file for state unemployment benefits, an eligibility review is conducted to determine if claimants meet Montana’s statutory requirements to receive unemployment benefits. This chapter addresses our first audit objective to determine if the Department of Labor and Industry (department) makes benefit eligibility decisions that comply with federal timeline requirements. Our audit work identified changes are needed to improve the timeliness of these decisions. The remainder of this chapter discusses our audit findings.

Unemployment Insurance Claim Eligibility

The determination of a claimant’s eligibility for UI benefits is an important role for the department. According to the department’s goals and objectives, timely decisions are also one of its top priorities. Claimants can file for initial or biweekly state unemployment benefits over the phone or online. When filing a UI claim, individuals must provide information so the department can determine if claimants meet statutory eligibility requirements. Examples of information individuals or employers must provide include:

- ◆ Verification of citizenship or legal work status.
- ◆ Reason for unemployment.
- ◆ Wages earned over the past 12-18 months.
- ◆ Physical ability and availability to accept work each week.
- ◆ Weekly work search efforts.

Claimants are eligible to receive state benefits between 8 and 28 weeks within a 52 week benefit year, but they must meet all eligibility requirements for benefits to continue. During the department’s review of a claim, “claim issues” are often identified weekly. A claim issue is any act or circumstance that could disqualify a person from receiving unemployment benefits. According to department officials, approximately 75 percent of claims have at least one issue. When a claim issue arises, the department must investigate the circumstances surrounding it through an eligibility determination process. Through this process, all facts concerning a claim issue are gathered from claimants and employers, or a reasonable attempt is made to obtain such facts, so a decision can be made if the claimant is eligible to receive benefits. The claim eligibility process also goes through a quarterly internal quality control review. These reviews assess decisions made by department staff when investigating claim issues and the timeliness of the process.

Determination Process Does Not Ensure Timely Benefit Eligibility Decisions

Federal standards establish specific timelines that the eligibility determination process should meet to resolve claim issues. These standards require that claim 80 percent of issues be resolved within 21 days of issues being detected. Audit work found the department's determination process does not ensure timely eligibility decisions are made. We reviewed 26 randomly selected claim issues for fiscal year 2011 to determine if claim issues were resolved and eligibility decisions made in a timely manner. Approximately half of the claim issues we reviewed did not meet required timelines. For the 12 claim issues we reviewed that did not meet required timelines it took an average of more than 54 days to resolve and make an eligibility determination. Department internal quality control reviews indicated the process has not met required timelines for resolving claim issues for almost three years. According to department officials, the ongoing recession has impacted the department's ability to meet these timelines.

Unresolved claim issues exceeding timelines can create hardships on claimants because unemployment benefits may be their only source of income. For example, our review of claim issues identified a claimant who contacted the department after 89 days (three months) asking when an eligibility decision would be made because they were having difficulty paying bills. In addition, since the department has not met required timelines, a backlog of unresolved claim issues has been created.

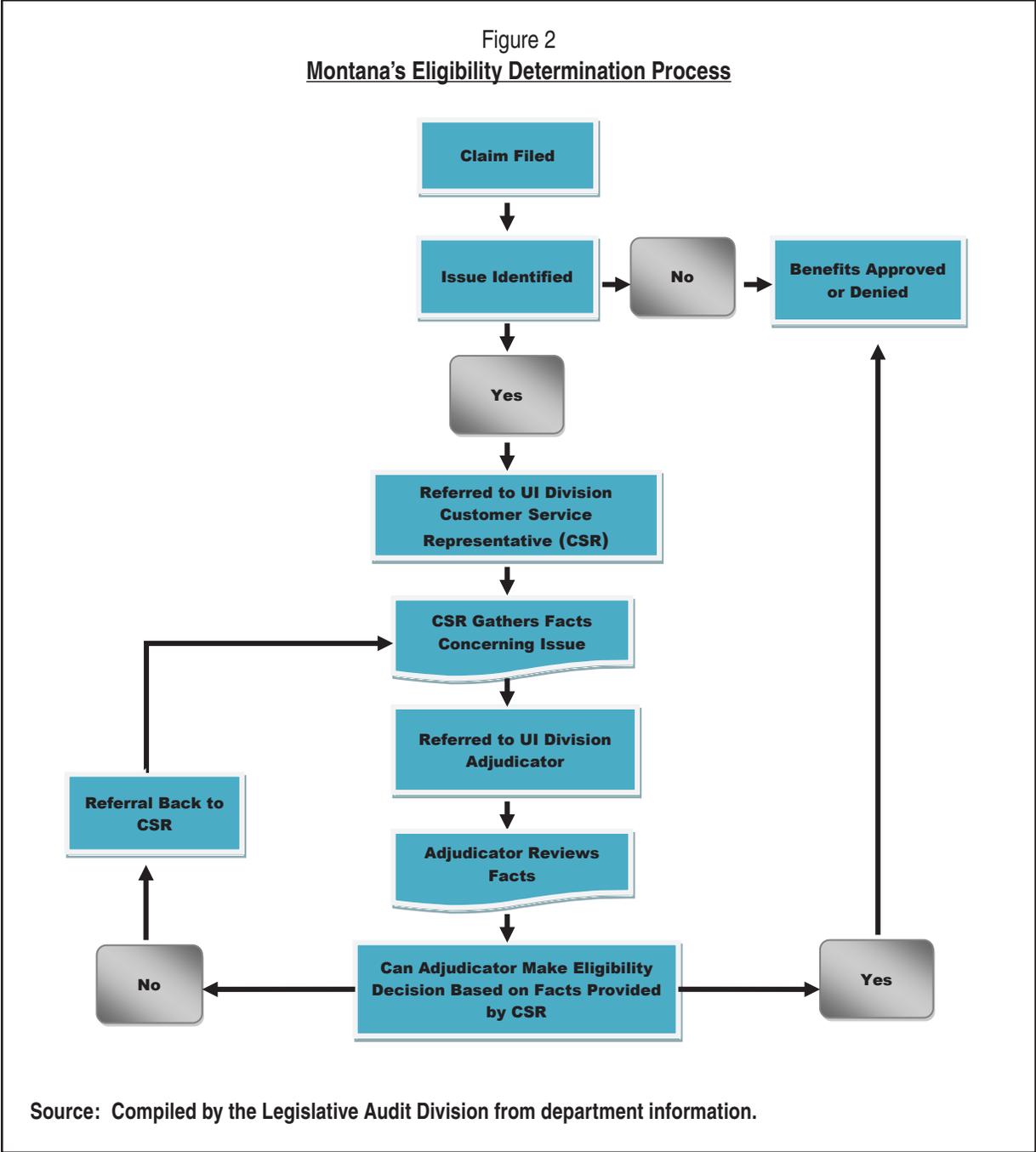
Current Process Has Duplication and Delays

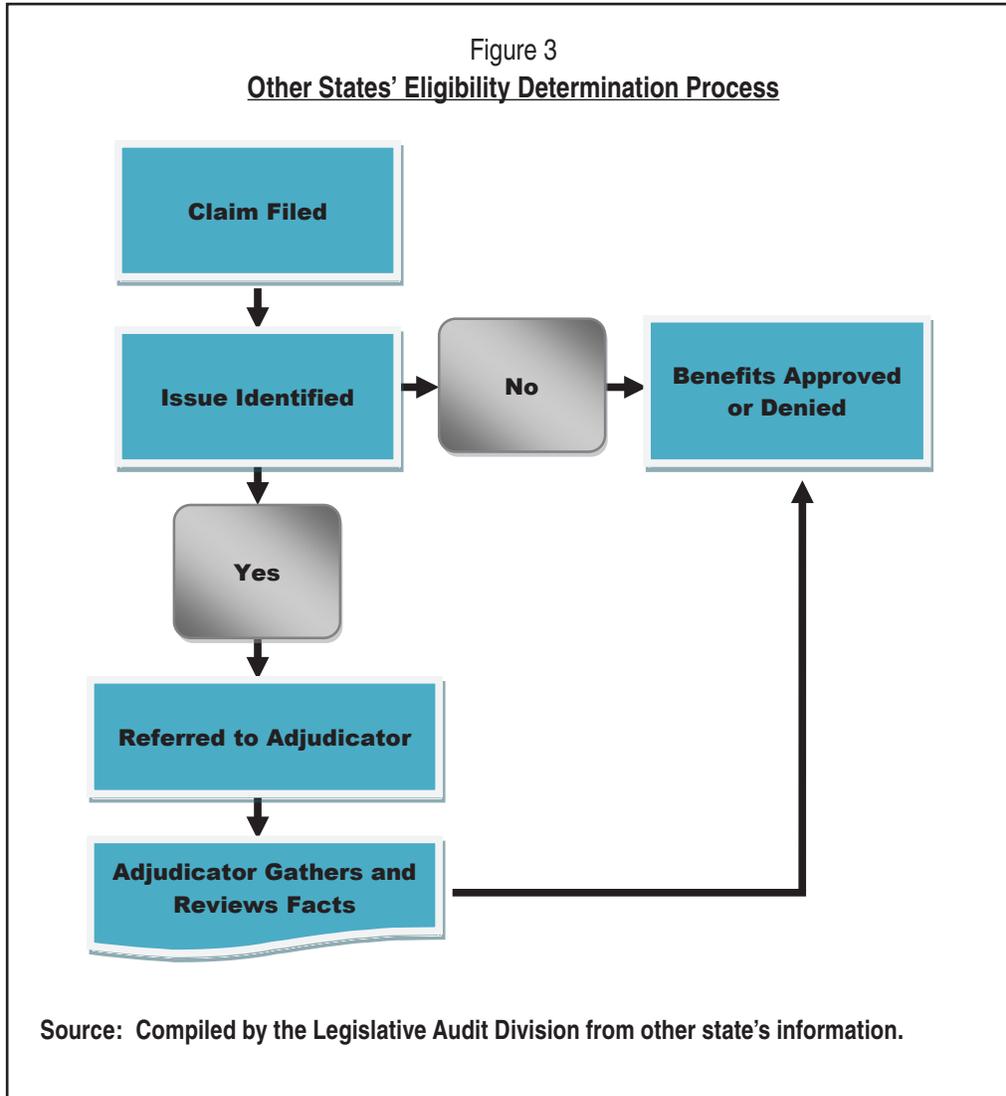
The department uses an eligibility determination business model that consists of multiple staff collecting and reviewing information during the process. Specifically, one person gathers information related to a claim issue and another person reviews the information and makes the eligibility decision. The current process to resolve claim issues generally involves two staff, and at times more, to examine claim issues. We found this has created duplication of efforts, delays in resolving claim issues, and untimely benefit eligibility decisions.

Other States Are Meeting Timeline Requirements

We found eligibility determination processes in other states were meeting federal timelines. We contacted Utah and South Dakota to discuss controls for their eligibility determination process and identify best practices that contribute to their timeliness. While unemployment rates and eligibility requirements may differ somewhat from Montana, our audit work found these states use a business model that does not involve multiple staff to process claims. For example, officials in Utah indicated claim issues go directly to staff who investigate the circumstances surrounding the issues and then

make the corresponding eligibility decision. South Dakota officials indicated their UI program uses a similar business model. Officials in these states said this eliminates duplication and multiple reviews of information during the process and ensures timely eligibility decisions. Figures 2 and 3 compares Montana’s eligibility determination process to processes used in other states that are meeting federal timeline requirements.





Department Is Exploring Alternatives

The department is exploring options to improve the timeliness of their existing process. Department officials indicated they are planning to change to a business model with one staff person responsible for both fact finding and making eligibility decisions. In addition to improving timeliness, they also believe it would allow the department to better address workload peaks and valleys that are inherent within UI programs due to changing economic conditions.

RECOMMENDATION #1

We recommend the Department of Labor and Industry streamline its eligibility determination process to facilitate compliance with federal timeline requirements.

Staff Assignments Could Be Improved

To assist in managing claim issues after they are assigned to staff, the department compiles and uses certain types of information. Examples include the number of claim issues resolved per hour, total unresolved issues each month and total monthly work items pending a decision. According to department supervisors, this information is needed so staff can determine when claim issues are nearing the date of when they should be resolved. While this information is important to the process, additional information could help the department better administer the process to resolve claim issues, such as considering claim issue complexity when assigning issues to staff.

Our audit work found limited information is used related to the complexity of claim issues to help ensure they are assigned to staff with the experience and training necessary to resolve the issue. Department staff indicated this has contributed to the process not meeting required timelines. The department could use available information related to the complexity of claim issues to ensure staff is assigned claim issues matching their experience and training level. For example, less experienced staff would be assigned the least complex claim issues and experienced staff being assigned more complex issues.

RECOMMENDATION #2

We recommend the Department of Labor and Industry assign claim issues to staff based on complexity of the issue.

Chapter III – Delinquent Unemployment Insurance Tax and Overpaid Benefit Collections

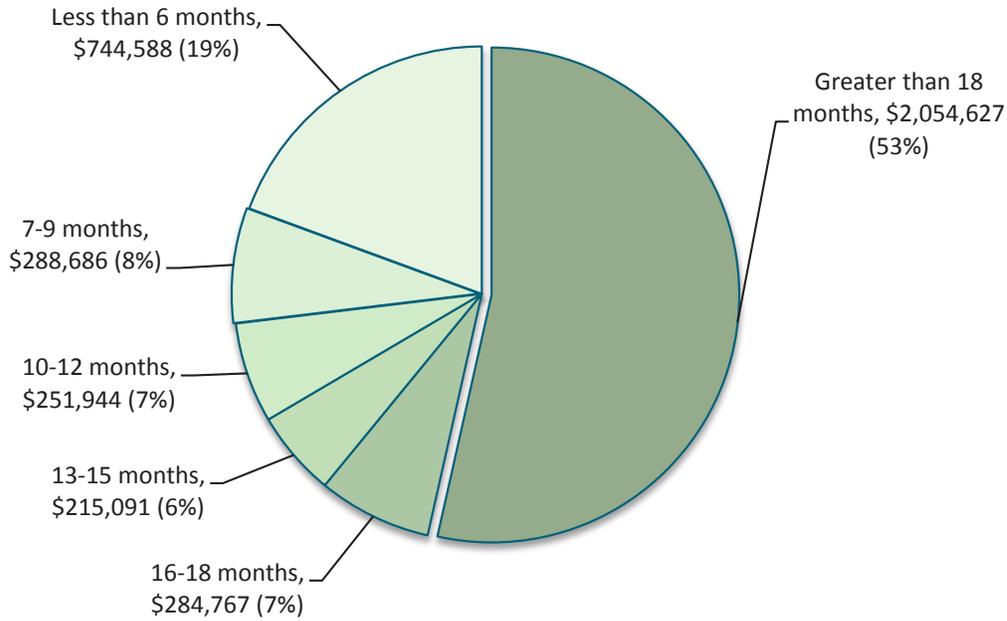
Introduction

The Department of Labor and Industry (department) is responsible for collecting delinquent state unemployment insurance (UI) taxes and overpaid benefit payments made to individuals. This chapter discusses our second objective related to department controls over its collection activities. Controls over collection activities are important because they help ensure delinquent funds are collected and deposited into the Unemployment Insurance Trust Fund. Our audit work found improvements could be made in management controls over the department's process to collect delinquent state UI taxes and state overpaid benefits. The following sections discuss those control areas we believe can be improved.

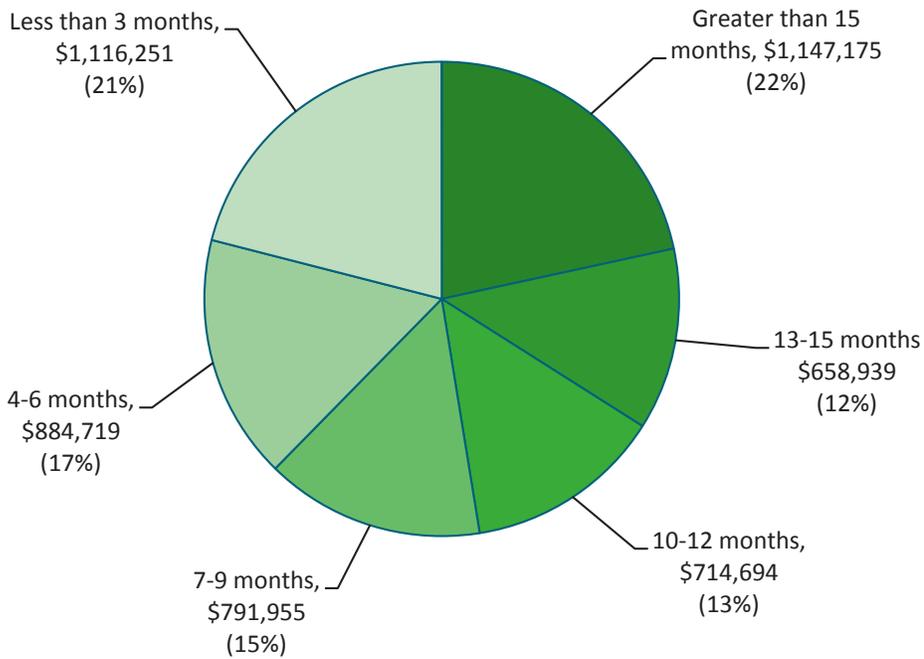
Delinquent State Unemployment Insurance Taxes and Overpaid Benefits Have Increased

According to department officials, the longer delinquent state UI taxes and overpaid benefits accounts remain uncollected, the more difficult or highly unlikely they are to be collected. Based on our review of department information, the amount of delinquent state UI taxes and overpaid unemployment benefits is increasing. In addition, we determined large amounts of these funds have gone uncollected for long periods of time. Between fiscal year 2007 and 2011, the amount of delinquent UI taxes (not including penalties or interest) increased 15 percent from approximately \$3.3 million to over \$3.8 million with 53 percent remaining uncollected for more than 18 months. During this same time period, the amount of unrecovered state overpaid unemployment benefits grew 204 percent from \$1.7 million to \$5.3 million. Approximately 22 percent of all unrecovered state overpaid benefits have gone uncollected for more than 15 months. Figure 4 illustrates the amount and age of delinquent state UI taxes and unrecovered state overpaid benefits.

Figure 4
Delinquent State UI Taxes
 June 30, 2011



Unrecovered State UI Benefit Overpayments
 June 30, 2011



Source: Compiled by Legislative Audit Division from U.S. Department of Labor reports filed by the Montana Department of Labor and Industry.

In addition to the \$5.3 million funded by the state, audit work found \$5.7 million in federally funded unrecovered benefit overpayments in fiscal year 2011. Recovery activities of both state and federally funded benefit overpayments occur under the same system of controls. According to department management, increases in the amount of UI taxes assessed and benefits paid have contributed to the increase in tax delinquencies and overpaid benefits. For example, between fiscal year 2007 and 2011, state UI tax assessments increased from approximately \$94 million to over \$147 million. In addition, total benefits paid during this time period increased from approximately \$76 million to more than \$278 million. However, we also found increases in delinquent taxes and unrecovered benefits was due to limited controls over the department's collection and recovery activities.

State Law and Policy for the Collection of Accounts Receivable

Section 39-51-3207, MCA, allows for the department to transfer what they consider uncollectable debts to the Department of Revenue (DOR) for additional collection efforts. In addition, state policy addresses procedures that state agencies must take to appropriately manage uncollectable accounts. This includes periodically reviewing delinquent accounts and transferring those accounts to DOR or an outside collection agency after an agency has made reasonable collection efforts.

According to department officials, the average size of UI delinquent tax and unrecovered benefit accounts is over \$1,500. We reviewed 10 of the department's larger delinquent UI tax and unrecovered benefit accounts. Our audit work identified examples where the department did not follow state policy when addressing these accounts. For example, collection efforts were ended on a \$65,000 delinquent UI tax account after several years without referring the account to DOR or another collection entity. We also identified a similar situation on an account with a \$32,000 overpaid benefit. In addition, these decisions were made without management involvement. Department information indicated it had also written off delinquent UI tax accounts without following state policy. For example, department staff indicated that since approximately 2004, \$4.1 million in uncollected UI taxes had been removed from the department's accounts receivable balance because the department determined the accounts were uncollectable. However, interviews with division officials found these accounts had not been sent to DOR or an outside collection agency to assist with collection efforts. Department management stated they were not involved in how these accounts should be handled and decisions were made by individual collection staff.

Department staff indicated there is currently no formal process in place to review the status of delinquent UI tax or overpaid benefit accounts or determine when they should

be transferred to DOR or outside collection agencies. As a result, the department does not comply with state policy which has also contributed to the growing amount and age of receivables related to delinquent UI taxes and overpaid benefits. The department should develop a process to ensure it manages these accounts in compliance with state policy.

RECOMMENDATION #3

We recommend the Department of Labor and Industry comply with state policy and periodically review delinquent unemployment insurance tax, and overpaid benefit accounts and transfer those deemed to be uncollectable to the Department of Revenue or outside collection agencies.

Collection Controls Could Be Stronger

According to department staff, it is important controls exist to ensure collection activities be handled appropriately and consistently. To assess the controls over collection activities, we reviewed collection documentation for delinquent UI tax and overpaid benefit accounts. We also interviewed department staff regarding collection activities that were conducted. The following sections discuss our review of the department's collection of delinquent UI taxes and overpaid benefits.

Unemployment Insurance Delinquent Tax Collections

We reviewed 10 delinquent UI tax accounts totaling more than \$665,000 to assess the department's collection procedures. The following issues were identified during audit work:

- ◆ Collection of a \$65,000 account was suspended without consulting or obtaining approval from management.
- ◆ Efforts to collect funds through a wage levy were ended due to lost signature documentation for a \$50,000 account.
- ◆ Liens were released against spouses of two employers where one account owed \$93,000 and the other \$57,000, without involvement of department management or department legal staff.
- ◆ Two accounts had not been sent to DOR. One account has been delinquent since 1999 and owes \$70,000. The other account became delinquent in 2009 and owes \$50,000.

Benefit Overpayment Recovery

We also reviewed 10 state benefit overpayments totaling more than \$290,000 to evaluate the division's recovery process of overpaid benefits. Our review of these accounts identified instances where department policy was not followed.

- ◆ Five accounts older than six months did not have liens filed, despite no money being collected or any payment agreements established.
- ◆ Six accounts totaling \$125,000 established verbal payment agreements with claimants with no documentation.
- ◆ Two accounts totaling more than \$68,000 had not been sent to DOR.

Strengthening Controls for Unemployment Insurance Tax Collection and Benefit Overpayment Recovery

Management controls in several areas could be improved including strengthening policies and procedures, supervisory review, and management information. Each of these areas is discussed below.

Policies and Procedures

Although the department has policies and procedures for the UI tax collection process, they are generally limited to providing guidance in areas such as inputting data into the UI tax computer system. We found they generally lack information to provide guidance to staff for collection activities. For example, there are no policies or procedures regarding payment plans, filing or releasing liens, or sending accounts to DOR to intercept state warrants. Consequently, there is limited guidance to staff regarding collection of delinquent UI taxes.

The department has detailed policies and procedures for collecting overpaid benefits from claimants. They provide guidance to staff in several areas such as filing liens against claimants, establishing payment agreements to collect funds, and when to send accounts to DOR to intercept state warrants. However, our audit work identified several examples where the policies and procedures were not followed. For example, we identified six overpaid benefit accounts where the department established verbal repayment agreements with claimants. Although department policy requires payment agreements be sent to claimants, we found no evidence this had occurred.

Supervisory Review

Management controls indicate that supervision is necessary for an effective control environment and one individual should not control all key aspects of a transaction or event. We found collection decisions are generally at the discretion of individual collectors. Our review of collection documentation and interviews found there was

limited supervisory review or approval of collection activities. This contributed to the inconsistencies we found in the process to collect delinquent taxes and overpaid benefits. We noted other agencies responsible for collecting delinquent accounts have implemented a supervisory review process of collection activities. For example, DOR requires supervisors to review and approve collection activities to ensure they meet department policy and determine when accounts should be deemed uncollectable.

Management Information

Management is responsible for establishing and maintaining information to assist in administering program activities. The current UI tax computer system limits the ability of the department to collect and compile management information related to tax collection activities. Although the system tracks individual accounts, the department's ability to analyze UI tax collection efforts is limited because the system is not capable of providing extensive management information. As an alternative, the department has developed an Excel spreadsheet to track certain collection activities regarding delinquent tax accounts. Information compiled includes taxpayer name, account number, the amount due, and if a payment plan was established. However, this information does not provide the department the ability to evaluate the effectiveness of its collection activities. For example, while the current spreadsheet notes whether a payment plan was established it provides limited information on whether the terms of the payment plan are being adhered to. This information also makes it difficult for the department to evaluate the age of delinquent accounts. The department has recently gone out to bid for a new UI tax computer system. Interviews suggest that many of the current management information limitations may be addressed when the new system is in place, but it will not be available for approximately two to three years. In the meantime, the department should expand its use of the management information it currently compiles to provide a better perspective of the status of delinquent tax accounts and collection activities that are occurring.

Overpaid Benefits Management Information

Similarly, limited management information is compiled to assist with the recovery of overpaid benefits. For example, the department does not track the status of payment plans or liens filed on individuals who were overpaid benefits. Consequently, department management is unable to determine when these recovery activities occur, the extent they are used, or their effectiveness in recovering overpaid benefits. This kind of information is available in a department database that tracks UI benefit information. Department officials indicated strengthening management information would help improve the department's recovery efforts and said this information can be compiled via existing information.

RECOMMENDATION #4

We recommend the Department of Labor and Industry:

- A. *Establish and implement policies and procedures related to delinquent unemployment insurance tax collections.*
 - B. *Follow existing policies and procedures related to recovering overpaid unemployment insurance benefits.*
 - C. *Document supervisory review and approval for department tax collection and benefit overpayment recovery activities.*
 - D. *Compile effective management information on collection and recovery activities.*
-

Field Audit Selection Criteria

When employers pay their quarterly state UI tax bill, they must also submit documentation to the department with specific wage information for each employee. To help ensure employers are reporting correct wage information and are paying the appropriate amount of UI taxes, the department uses field auditors to review employer UI tax records. These audits are a critical part of the department's responsibility because they identify employers who have not paid the correct amount of UI tax. Federal standards have various requirements that field audits must meet. For example, these standards require at least one percent of Montana's contributory employers (those required to pay UI taxes) be audited each year. Our audit work found the department is meeting this standard and conducts approximately 700 employer field audits annually. Our review found the department uses a process to select employers to be audited based on potential risks areas. For example, the department focuses audit selection on industry types that have demonstrated a higher likelihood for errors in information related to UI taxes paid.

Audit Selection Process Not Documented

Although the department uses a risk based approach to identify employers to audit, we found the process has not been documented. Department information indicates a formal process should exist that ensures field audits keep up with a changing Montana business climate. Department information also indicates audit selection should be based on preselected audit criteria. The current process has not been documented and generally relies on the knowledge of one department employee. Documenting the criteria describing the current audit selection process would help ensure the division continues to direct its audit resources appropriately.

RECOMMENDATION #5

We recommend the Department of Labor and Industry document selection criteria for unemployment insurance tax field audits.

DEPARTMENT OF LABOR
AND INDUSTRY

DEPARTMENT RESPONSE



Governor Brian Schweitzer
Commissioner Keith Kelly

Montana Department of LABOR & INDUSTRY

A-1

Commissioner's Office

RECEIVED

OCT 05 2012

LEGISLATIVE AUDIT DIV.

October 5, 2012

Ms. Tori Hunthausen
Legislative Auditor
Legislative Audit Division
P.O. Box 201705
Helena, MT 59620-1705

Subject: Performance Audit 12P-01: Department of Labor and Industry, Administration of Montana's Unemployment Insurance Program

Dear Ms. Hunthausen:

The Department of Labor and Industry has reviewed this report and would like to thank your audit staff for their review and recommendations. Timeliness of benefit payments, employer audit and tax collections and benefit overpayment collections are areas of concern in this performance audit and we appreciate their efforts to help us in these areas.

The Unemployment Insurance (UI) program provides "short-term" assistance to Montana workers who are out-of-work through no fault of their own. The Great Recession in the last several years brought a significant challenge to the Unemployment Insurance Division (UID) in Montana. The UID has been faced with historical claim filings, multiple federal extensions and numerous major program changes.

From 2008 to 2009 claims filings increased by 189% (59,114 to 112,145) and in 2010 it increased 224% to 132,227 from normal work levels of 59,000 in 2008. In 2011, claims filings decreased, but were still 194% higher than normal levels (59,114 to 114,972), and are still much higher than prerecession levels.

Since the Recession began in 2008, the UI program processed over 452,000 claims and paid out \$1.1 billion in state and federal benefits. The amount of benefits paid has been an economic stabilizer to the communities in Montana during this recession. Although we paid out a historical amount of benefits, the UI trust fund continued to stay solvent throughout this recession. Montana was one of only a few states that stayed solvent and did not have to borrow funds throughout this period.

The UI program is a federal-state partnership and each state has differing laws and economic conditions. Montana was unique from all other states in having two state extended benefit periods and also like all

other states, administering eight additional Federal Emergency Unemployment Compensation (EUC) extensions. Many of these federal extensions were retroactive causing delays in processing claims and in some instances causing overpayments.

With state and federal extensions and the recession, individuals relied on UI benefits for longer than in the past. UI is a week by week eligibility and with the increased claims filed and the associated increase in weeks claimed, this contributed significantly to the higher workload and our timeliness to process claims. Even with steps to mitigate the increased workload, UID was unable to adequately keep up with the increased inquiries and claims processing demand. Changing a program of this complexity to provide long-term extensions in time of historical work load was a significant challenge to the program.

In our tax collections area, the Department has collected over 99.5% of the UI tax assessed. Between SFY2007 and SFY2011, tax assessments and collections increased by 156% whereas the accounts receivable only increased by 15% during those five years. With the recession, more employers are struggling to pay their bills timely or even at all.

The UID concurs with all the audit findings and is working to correct these issues to ensure an efficient program that meets the audit findings and our integrity goals.

Our responses to the recommendations appear below:

Recommendation #1:

We recommend the Department of Labor and Industry streamline its eligibility determination process to facilitate compliance with federal timeline requirements.

Response: Concur

The Department had already begun discussions on planning a new business model that will significantly reduce the duplication of efforts prior to this audit. With the recession and the increased demand of our services we were unable to fully begin this effort. We are in the process of piloting this model with seven adjudication staff managing the claim from detection of an issue through the adjudication process. Additionally, the Claims Processing Bureau Chief has met with Human Resources, Labor Relations, union representatives and staff, regarding the business model change. The Division has contracted with a vendor to assist with rewriting and classifying job profiles by December 31, 2012 with full implementation of a new series of claims examiners to accommodate this new model by December 31, 2013.

Recommendation #2:

We recommend the Department of Labor and Industry assign claim issues to staff based on complexity of the issue.

Response: Concur

Our current staffing model does not provide for routing of issues by complexity. The new business model defined in recommendation #1 will facilitate the ability to route issues to one individual for processing based on complexity and will greatly increase the efficiency of the processing of UI claims. There may be times when an issue will need to be routed to another staff person who has a more experienced skillset. However, this should be limited when the business model identified in recommendation #1 is implemented.

Recommendation #3:

We recommend the Department of Labor and Industry comply with state policy and periodically review delinquent unemployment insurance tax and overpaid benefit accounts and transfer those deemed to be uncollectable to the Department of Revenue or outside collection agencies.

Response: Concur

The Department will research write-off policies and procedures for referral to the Department of Revenue or an outside collection agency by March 31, 2013. The Department will implement policies and procedures based on this research by June 30, 2013. The Department will comply with state policy and periodically review delinquent accounts.

The Department will also continue to refer accounts we are actively collecting on to the Department of Revenue for offset of tax refunds or other state warrants, pursuant to statute and department policy.

Recommendation #4:

We recommend the Department of Labor and Industry:

- A. Establish and implement policies and procedures related to delinquent unemployment insurance tax collections.**

Response: Concur

The Department has started drafting additional policies and procedures on collection of delinquent unemployment insurance taxes. The policies and procedures will be completed and implemented by March 31, 2013.

B. Follow existing policies and procedures related to recovering overpaid unemployment insurance benefits.

Response: Concur

The Department has begun programming reports to track accounts to ensure they meet existing policies and procedures such as referral to Department of Revenue for offsets, filing of liens and creation of and compliance with written payment plans. These will be completed and implemented by December 31, 2012.

C. Document supervisory review and approval for department tax collection and benefit overpayment recovery activities.

Response: Concur

A supervisor or lead worker has historically reviewed and approved collection anomalies and/or write off of accounts, however, procedures did not require this be documented. The Department will incorporate documentation of supervisory review, where needed, into the policies and procedures. Policies and procedures will also be reviewed to include areas such as thresholds for supervisory approval for both tax collections and benefit overpayments. This will be completed by December 31, 2012.

D. Compile effective management information on collection and recovery activities.

Response: Concur

The Department has begun programming reports to compile information necessary for more effective supervisory management of benefit overpayment accounts. These reports will allow supervisors to sort by amounts, accounts, liens filed, payment plans etc. These reports will be reviewed by supervisors to ensure effective management of accounts and will allow for higher level information to be shared with department management. These will be completed and implemented by December 31, 2012.

In June 2011, the Department modified and expanded our UI Tax Collections Specialists Lists of Accounts Receivable to include more information of collection activities. The Tax Collection Supervisor reviews this report and sorts the report to obtain statistics for collectors and accounts.

We are in the process of selecting a vendor for the new UI tax computer system and expect the project to begin in January 2013. The Department anticipates the new UI tax system will be operational on or before January 2015 at which time we will be incorporating additional reports and tools for collectors and managers to manage delinquent accounts and collection activities.

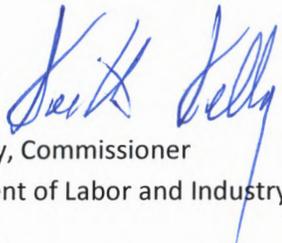
Recommendation #5:

We recommend the Department of Labor and Industry document selection criteria for unemployment insurance tax field audits.

Response: Concur

The Department will add instructions for selecting audit candidates to the audit selection policy and procedures by December 31, 2012. The Department has already centralized the audit result analysis files where they are accessible to other managers and field auditors.

Sincerely,



Keith Kelly, Commissioner
Department of Labor and Industry

Cc: Roy Mulvaney, Unemployment Insurance Administrator
Kim Moog, Centralized Services Administrator