

LEGISLATIVE AUDIT DIVISION

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MEMORANDUM

TO: Legislative Audit Committee Members
FROM: Sarah Carlson, Performance Auditor
CC: Pam Bucy, Commissioner, Department of Labor and Industry
Roy Mulvaney, Administrator, Unemployment Insurance Division
Robert Allen, Program Support Bureau Chief
Sandy Bay, Contributions Bureau Chief
Shirley Rush, Claims Processing Bureau Chief
DATE: April 2014
RE: Performance Audit Follow-Up 14SP-06: Administration of Montana's
Unemployment Insurance Program (original 12P-01)
ATTACHMENTS: Original Performance Audit Summary

Introduction

The Administration of Montana's Unemployment Insurance Program (12P-01) report was issued to the Legislative Audit Committee in October 2012. The audit included five recommendations to the Department of Labor and Industry (department) relating to Unemployment Insurance (UI) eligibility determinations, collection of delinquent UI taxes, collection of overpaid UI benefits, and UI field audits of businesses. We conducted follow-up work to assess implementation of the report recommendations. This memorandum summarizes the results of our follow-up work.

Overview

The original audit found that the Department of Labor and Industry could improve the timeliness of unemployment benefit eligibility decisions, as well as strengthen controls to collect delinquent state unemployment taxes and overpaid benefits. The Department of Labor and Industry concurred with all of the recommendations and is making progress on implementing them. A revised business model for processing eligibility claims is being implemented. Policies and procedures related to collections have been developed and implemented, and work continues on determining the best way to deal with uncollectable taxes and overpaid benefits.

RECOMMENDATION #1

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

Implementation Status – Being Implemented

The department is working toward changing their business model for processing UI eligibility determinations to reduce duplications and improve timeliness of claims. The new model is designed to dedicate staff working on fact-finding and adjudication to those duties while staff answering calls and

helping claimants will be focused on these tasks. This has been accomplished by creating new job descriptions in which one individual will do the investigation and adjudication of claims issues, rather than dividing these tasks among different staff who may not have sufficient training or experience to investigate claims, as in the previous model. The department is still training staff on the new eligibility determination model and working toward having enough properly trained adjudicators to meet the program's business need. They plan to have this recommendation fully implemented by August 2014.

The department acknowledges that they are still not meeting the required federal timeline as they continue working on meeting the current workload while concurrently training people and getting ready to implement the new model. They anticipate when the switch to the new model is complete in August 2014, the time required to complete an eligibility determination will decrease.

RECOMMENDATION #2:

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

Implementation Status – Being Implemented

The department has been working on training and organizing their workforce to more efficiently make eligibility determinations. The new organization of staff divides employees into one of five levels, with Level 1 being focused on answering the phone, helping callers file a claim, answer questions and related tasks. Level 5 staff will have the training and experience to make the most complex eligibility determinations. The distinction between single-party and two-party adjudication is what the department is going to use for routing claims based on complexity. Single-party adjudications are generally considered less complex because the fact-finding for the claim is predominantly related to the claimant. For example, if a claimant does not verify their U.S. citizenship or alien legal work status when applying, this will come up as an issue preventing them from being eligible for benefits. If this is the only issue identified with this claim, the claims investigator will likely only have to contact the claimant to determine the facts regarding this claim. In contrast, two-party adjudication involves fact-finding related to the claimant as well as other interested parties, such as the claimant's former employer. For example, if the employer disputes the reason the claimant is no longer employed, more fact-finding from both parties will be necessary. The department plans to have this recommendation fully implemented by August 2014. Also, the department's longer term goal will be to revise or replace their current claims routing system with one which can route claims based on complexity automatically, making manual routing unnecessary.

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 an outside collection agency.

Implementation Status – Being Implemented

Periodic review of delinquent unemployment insurance tax and overpaid benefit accounts is occurring during the supervisory review of expanded reports, which are described in more detail in the Recommendation #4 discussion. Implementation of the second part of this recommendation related to the transfer for uncollectable accounts is postponed due to circumstances beyond the control of the department. The Department of Revenue is proposing a new Administrative Rule regarding the transfer of uncollectable debt and the Department of Administration will soon be changing the Montana Operations Manual (MOM) policy regarding the use of the Statewide Accounting, Budgeting and Human Resource System off-set process. When these changes have been finalized, the department will revisit the best way to improve their process regarding uncollectable unemployment insurance taxes and overpaid benefit accounts. The Department of Revenue has notified the UI Division that it currently does not want

uncollectable delinquent tax debt transferred to them as they have no additional collection tools beyond what the division has.

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.**

Implementation Status – Being Implemented

A. The department reviewed their tax collection policies and procedures. Procedures to address areas not previously covered were established and staff were trained regarding them. For example, policies were drafted and adopted related to payment plans and liens for the collection of unpaid UI taxes. The only exceptions are policies and procedures related to the transfer of uncollectable debts to the Department of Revenue or an outside collection agency. These have not been implemented pending approval of the new Administrative Rule and MOM policy discussed under Recommendation #3 above.

B. In order to review accounts and ensure they meet existing policies and procedures, the Claims Investigation Supervisor and the Program Support Bureau Chief review a sample of open accounts on a weekly basis. From this report, they are able to review detail by claimant to validate that appropriate collection activity is taking place such as filing of liens and referrals to the Department of Revenue for offsets of tax refunds or other state warrants. If they determine that a policy regarding a particular collection activity has not been followed appropriately, they discuss it with the collection technician and instruct the technician to proceed with the collection activity.

C. Supervisory review, and its documentation, has been added to the new tax collection policies and procedures. A collector must now obtain supervisory approval if a deferred payment contract extends repayment past three years from the date of negotiation. The supervisor's approval is documented in the "notes" screen on the account. In the new Status, Tax Accounting, Audit, and Rating System, known as STAARS, which is slated for implementation in 2014, the collector will not be able to finish the payment plan until the supervisor electronically approves it and types a note on why the contract has been extended beyond three years.

The Overpayment Collection Unit of the Program Support Bureau incorporates the documentation of supervisory review in their processes. For example, the Claims Investigation Supervisor must review and approve all requests for department error waivers. The Overpayment Collection Unit sends a form indicating the potential department error to the appropriate supervisor to look at and approve or deny. There is a space on the bottom of the form to approve or deny and the supervisor must document the reason for their decision. The form is then sent back to the Claims Investigation Supervisor who must then review it, initial and date it before giving it to the collector to waive the overpayment collection. The hard copy form is then imaged into the claimant's claim file.

D. The department has modified and expanded the kind of information that is available on a monthly outstanding tax accounts list, which UI tax collection specialists use in collecting delinquent tax accounts. This list of delinquent accounts now includes more information about each account, such as if a lien can

be filed or if other collection activities are available to the collector. The Collections Supervisor reviews these expanded reports to obtain statistics for individual collectors and accounts. Related to benefit overpayment collection, Division Management reviews a monthly report of summarized overpayment management results by category of issue, number of claimants, and total dollars of overpayment involved. The report also shows how many and what type of collection activities took place during the month.

RECOMMENDATION #5:

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

Implementation Status – Implemented

When employers pay their quarterly UI tax bill they must also submit documentation with specific wage information for each employee. To help insure employers are reporting the correct wage information and are paying the appropriate amount of UI taxes, the department uses field auditors to review employer UI tax records.

Although the department was using a risk based approach to identify employers to audit, we found that the process had not been documented. Instructions were added in March 2013 to the audit selection policy and procedures to document the audit selection criteria. They identify how an employer may be selected for an audit. Employers may be selected randomly, based on a tip or complaint about a specific business, or due to their appearance in a pool of targeted employers. A pool of targeted employers may be based on date of subjectivity (i.e. newer employers are audited to confirm they understand UI reporting requirements), ownership type, industry type, or reporting irregularities.