



NEBRASKA AUDITOR OF PUBLIC ACCOUNTS

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John Albin, Commissioner
Nebraska Department of Labor
550 South 16th St.
Lincoln, Nebraska 68509

Dear Commissioner Albin:

We have audited the financial statements of the governmental activities, the aggregate discretely presented component units, each major fund (except the Enterprise Fund – Unemployment Insurance), and the aggregate remaining fund information of the State of Nebraska (State), and we were engaged to audit the business-type activities and the Enterprise Fund – Unemployment Insurance, as of and for the year ended June 30, 2022, in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, and we have issued our report thereon dated January 30, 2023. In connection with our engagement to audit the financial statements, we considered the State’s internal control over financial reporting (internal control) as a basis for designing audit procedures that are appropriate in the circumstances for the purpose of expressing our opinions on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the State’s internal control. Accordingly, we do not express an opinion on the effectiveness of the State’s internal control.

In connection with our engagement to audit the financial statements as described above, we noted certain internal control or compliance matters related to the activities of the Department of Labor (Department) or other operational matters that are presented below for your consideration. These comments and recommendations, which have been discussed with the appropriate members of the Department’s management, are intended to improve internal control or result in other operating efficiencies.

Our consideration of internal control was for the limited purpose described in the first paragraph above and was not designed to identify all deficiencies in internal control that might be material weaknesses or significant deficiencies; therefore, material weaknesses or significant deficiencies may exist that were not identified. However, as discussed below, we identified certain deficiencies in internal control that we consider to be material weaknesses and another deficiency that we consider to be a significant deficiency.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the entity’s financial statements will not be prevented, or detected and corrected, on a timely basis. We consider Comment Number 1 (“Accounting Issues”) and Comment Number 2 (“Unemployment Insurance Benefit Payments”) to be material weaknesses.

A *significant deficiency* is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance. We consider Comment Number 3 (“Lack of Payroll Segregation of Duties and Other Issues”) to be a significant deficiency.

These comments will also be reported in the State of Nebraska’s Statewide Single Audit Report Schedule of Findings and Questioned Costs.

In addition, we noted other matters involving internal control and its operation that we have reported to management of the Department, pursuant to American Institute of Certified Public Accountants (AICPA) Auditing Standards AU-C Section 265.A17, in a separate early communication letter dated September 27, 2022.

Draft copies of this letter were furnished to the Department to provide management with an opportunity to review and to respond to the comments and recommendations contained herein. All formal responses received have been incorporated into this letter. The responses were not subjected to the other auditing procedures applied in the engagement to audit the financial statements and, accordingly, we express no opinion on them. Responses that indicate corrective action has been taken were not verified at this time, but they will be verified in the next audit.

The following are our comments and recommendations for the year ended June 30, 2022.

1. Accounting Issues

The Department lacked procedures for ensuring that the Enterprise Fund - Unemployment Insurance (UI) financial statements were presented accurately for the Annual Comprehensive Financial Report (ACFR). The UI funds were maintained outside of the State Treasurer in separate bank accounts. Journal entries were prepared to record the activity from the Department's separate tax (TMS (Tax Management System)/GUS (Geographic Solutions Unemployment System)) and benefit (GUS) systems to the State's accounting system, EnterpriseOne. The Department of Administrative Services (DAS) used EnterpriseOne to generate the financial statements. The financial statements required material adjustments due to incorrect journal entries and a lack of adequate procedures for reconciling the TMS and GUS systems to EnterpriseOne to ensure activity was reflected properly, which led to the APA issuing a disclaimer of opinion for the Enterprise Fund – Unemployment Insurance as well as for the Business-Type Activities.

A similar finding was noted during the fiscal year 2020 and 2021 audits. After both audits, the Auditor of Public Accounts (APA) recommended the Department work closely with DAS to establish procedures sufficient for calculating and reporting the UI Enterprise Fund for the ACFR. Furthermore, we recommended the Department establish procedures for its staff to review documentation, including the trial balance, and reconcile the separate TMS and GUS systems to the accounting system to identify issues that needed to be rectified. It is apparent from all the adjustments and errors noted that no such procedures were implemented despite the APA’s disclaimer of opinion of the prior financial statements.

The table on the following page summarizes over \$80 million in errors for the fiscal year ended June 30, 2022. The APA proposed the adjustments, all of which DAS posted. However, due to the significance of the errors identified – namely, the lack of support for balances within EnterpriseOne and the lack of adequate controls to ensure financial data was accurate and complete – there is a significant risk that additional material errors went undetected, requiring the APA to issue a disclaimer of opinion for the Enterprise Fund – Unemployment Insurance and related Business-Type Activities.

	Description	Dollar Error
1	DAS, with the help of the Department's Controller, determined that the ending balance in Due to Other Funds should have been \$269,794. However, the APA identified the following additional amounts held in the UI Trust account that also should have been recorded as Due to Other Funds as of June 30, 2022: <ul style="list-style-type: none"> • \$35,890,343 for the UI Modern Incentive Program • \$2,739,623 for the Reed Act • \$1,000,492 for the Emergency Unemployment Insurance Stabilization and Access Act (EUISAA) 	\$ 39,630,458
2	The Department failed to record an \$11,450,484 payable for overpayments from Federal programs, which ultimately will be due back to the Federal government once received. The Department also failed to record a similar entry in fiscal year 2021, resulting in an \$23,915,624 adjustment to the Beginning Fund Balance.	35,366,108
3	The Department failed to record an accounts receivable for overpayments that were less than 90 days old as of June 30, 2022. The Department reasoned that the claimant had 90 days to appeal the overpayment, so a receivable was not needed. However, it is unlikely that all claims less than 90 days old will be appealed and overturned; therefore, a receivable should have been recorded.	1,878,511
4	The Department failed to record a payable for claims paid after June 30, 2022, for services rendered prior to the fiscal year end.	1,431,090
5	As part of its interfund transfer elimination entry, DAS reclassified \$1,148,777 from Transfers In to Charges for Services. However, the tax revenue was for fiscal year 2021 and resulted in the overstatement of tax revenue in fiscal year 2022. Therefore, a Beginning Fund Balance adjustment was necessary.	1,148,777
6	In fiscal year 2020, the Department received \$443,000 from the Federal Government as part of the Coronavirus Aid, Relief, and Economic Security (CARES) Act and recorded it as revenue at that time. However, the Department did not participate in the program, and the amount should have been recorded as a Due to Government. Therefore, a Beginning Fund Balance adjustment was necessary.	443,000
7	The Department incorrectly calculated the Claims Liability for fiscal year 2022, resulting in an understatement of \$385,201.	385,201
8	As part of its interfund loan elimination entry, DAS made a \$357,389 entry to reclassify revenue for penalties and interest to Due To Other Funds. However, the Department had already recorded the entry as Due to Other Funds, so DAS's entry needed to be reversed.	357,389
TOTAL		\$ 80,640,534

The following issues were also identified during testing:

- The Department failed to record a receivable for claims that had been flagged as potentially fraudulent. As of October 12, 2022, there were over 34,000 open investigations, but the Department was unable to produce a total dollar amount for these claims and could not estimate how much should be established as overpayments. After the APA communicated this finding to the Department, an entry to record a \$5,282,062 receivable was provided. However, the Department's estimate ignored the 34,000 open investigations and the pandemic UI programs and pandemic years (fiscal years 2020 and 2021). Therefore, the APA concluded there was a high likelihood that the entry was materially understated.
- The Department reported several accounts receivable and accounts payable balances, ranging from \$1,946 to \$7,936,683, that lacked adequate support or accurate details. Therefore, the APA was unable to determine if the balances were correct or if any adjustments were necessary.
- The Department's June 30, 2022, benefits account bank reconciliation was not accurate. For example, the incorrect ending bank balance was used, and the outstanding checks were added to the ending balance instead of being subtracted from it. These errors resulted in an initial variance of \$176,187 between the bank balance and the book balance. An updated bank reconciliation was provided that corrected both errors, but an unknown variance of \$60,538 still existed.

- Two journal entries were posted to correct write-offs recorded in EnterpriseOne; however, these entries resulted in a variance of \$222,135 between the Tax Contribution Revenue recorded in EnterpriseOne and the amount recorded in the TMS system.

Good internal controls and sound business practices require procedures to ensure that accounting transactions are accurate and complete.

Without such procedures, there is an increased risk that material misstatements may occur and remain undetected.

We recommend the Department establish procedures to ensure accounting records are recorded properly in the accounting system, including reconciliation procedures to ensure accounting records reflect accurately the activity and appropriate balances of the separate UI systems (TMS & GUS).

Department Response: NDOL has corrected the \$80 million in errors reported. Although half of that amount was consistently reported in the State accounting system since fiscal year 2014, this is the first time those accounts have been cited by the APA as errors requiring correction. Implemented vendor software contains defects in tax reporting needed for accurate reconciliation and reporting in the State accounting system. This was the principal cause for the disclaimer of opinion. NDOL continues working toward resolution of system issues with our vendor to ensure accurate reporting. NDOL is working with DAS Accounting to ensure that the changes fully address accounting system issues identified in the audit.

2. Unemployment Insurance Benefit Payments

The Department paid \$69,734,975 million in unemployment insurance (UI) benefits to 19,912 claimants between July 1, 2021, and June 30, 2022.

Our testing included a random sample of 40 payments, totaling \$19,579, and resulted in \$6,545 in questioned costs. Based on the sample tested, the dollar error rate for the sample was 33.43% (\$6,545/\$19,579), which estimates the potential dollars at risk for fiscal year 2022 to be \$23,312,402.

In addition to the \$6,545 questioned costs for the 40 random sample payments, we noted an additional \$67,201 of questioned costs during other testing procedures.

Similar findings were noted during the previous audit.

The following table summarizes the questioned costs, which are explained in detail below:

	Questioned Costs
	FY 2022
Random Sample, including: -Inadequate Controls -Adjudication of Employer Responses -Weekly Certifications Issues -Wage Crossmatch Issues	\$ 6,545
Potentially Fraudulent Benefit Payments	58,212
Claimants with Excessive Benefits Received	6,028
Ineligible Payments to Inmates	848
Improper Unemployment Benefits Paid to State Employees	2,113
Total	\$ 73,746

Good internal controls require procedures to ensure that UI claimants are eligible, and benefit payments are proper.

Per 2 CFR § 2900.4 (January 1, 2022), the U.S. Department of Labor adopted the Office of Management and Budget (OMB) Uniform Guidance as its policies and procedures for financial assistance administration.

2 CFR § 200.403 (January 1, 2022) requires costs charged to Federal programs to be reasonable, necessary, and adequately documented.

Per 2 CFR § 200.302 (January 1, 2022), requires states to expend Federal awards in accordance with state laws.

2 CFR § 200.511(b) (January 1, 2022) states, in relevant part, the following:

The summary schedule of prior audit findings must report the status of all audit findings included in the prior audit's schedule of findings and questioned costs. . . .

* * * *

(2) When audit findings were not corrected or were only partially corrected, the summary schedule must describe the reasons for the finding's recurrence and planned corrective action, and any partial corrective action taken. When corrective action is significantly different from corrective action previously reported in a corrective action plan or in the Federal agency's or pass-through entity's management decision, the summary schedule must provide an explanation.

Adjudication Issues

Wage Crossmatch Issues

The Department is required to perform a quarterly wage records crossmatch per 20 CFR § 603.23(b) (April 1, 2021), which provides the following:

The State UC agency must crossmatch quarterly wage information with UC payment information to the extent that such information is likely, as determined by the Secretary of Labor, to be productive in identifying ineligibility for benefits and preventing or discovering incorrect payments.

The Department's benefit system is supposed to check the claimant against the Department's wage database to see if a claimant met the Department's criteria for further investigation. If the criteria were met, an investigation should automatically be created in the benefit system. The investigation is to include sending a wage audit request to the employer to obtain the wages earned for each week the claimant was receiving benefits.

From our random sample of 40 claimants, we noted that 18 claimants met the criteria; however, an investigation was not created. After we brought this to the Department's attention, the Department informed us that the quarterly wage crossmatch had not been running in accordance with its established business rules.

The following table details the 18 claimants' wages for the quarter tested, the amount self-certified by the claimant as required, and the benefits paid to the claimant for the quarter tested. We questioned the cost of the payment we tested only if the difference between wages certified by the claimant and the wages for the quarter per the Department's wage database were 125% more than the claimant's weekly benefit amount.

Claimant	Quarter	Benefits Paid for the Quarter	Wages Paid for the Quarter	Wages Certified by Claimant	Questioned Costs
Claimant #1	7/1/21 - 9/30/21	\$ 1,260	\$ 4,589	\$ 762	\$ 205
Claimant #2	7/1/21 - 9/30/21	1,050	2,116	385	150
Claimant #3	7/1/21 - 9/30/21	1,641	8,857	7,930	456
Claimant #4	7/1/21 - 9/30/21	3,648	11,273	8,944	456
Claimant #5	7/1/21 - 9/30/21	1,716	908	995	-
Claimant #6	7/1/21 - 9/30/21	3,648	5,199	-	456
Claimant #7	7/1/21 - 9/30/21	1,330	2,702	43	1,330
Claimant #8	10/1/21 - 12/31/21	720	8,895	-	240
Claimant #9	10/1/21 - 12/31/21	3,582	12,006	-	398
Claimant #10	10/1/21 - 12/31/21	5,694	6,212	-	438

Claimant	Quarter	Benefits Paid for the Quarter	Wages Paid for the Quarter	Wages Certified by Claimant	Questioned Costs
Claimant #11	1/1/22 - 3/31/22	1,248	5,344	-	156
Claimant #12	1/1/22 - 3/31/22	572	4,561	-	116
Claimant #13	1/1/22 - 3/31/22	3,280	857	563	-
Claimant #14	4/1/22 - 6/30/22	1,232	1,565	1,708	-
Claimant #15	4/1/22 - 6/30/22	2,096	1,235	-	262
Claimant #16	4/1/22 - 6/30/22	2,870	1,536	1,488	-
Claimant #17	4/1/22 - 6/30/22	810	2,317	-	162
Claimant #18	7/1/20 - 9/30/20	504	703	-	-

Good internal control requires procedures to ensure that wage crossmatches are performed, and benefits are paid in compliance with applicable Federal requirements.

Without such procedures, there is an increased risk of improper benefit payments being made in violation of Federal requirements.

Issues Regarding Adjudication of Employer Responses

When a claimant files for UI benefits, the Department sends a “Request to Employer for Separation Information” to the claimant’s previous employers to provide information, such as beginning and ending dates of employment, reason for termination, and whether vacation, severances, or other wages were paid after termination. Employers are required to respond within 10 days after the mailing or electronic transmission of such a request in accordance with Neb. Rev. Stat. § 48-632(1) (Reissue 2021). Additionally, per the Governor’s Executive Order No. 20-26 (June 2, 2020), the Department was required to adjudicate only the last separation from a claimant’s employment for claims filed on or after March 15, 2020, to 30 days after the lifting of the COVID-19 state of emergency. Executive Order No. 21-09 (June 28, 2021) extended this requirement to July 21, 2022. As such, only the last separating employer was required to be adjudicated by the Department on separations filed between March 15, 2020, and July 21, 2022.

For 10 claimants tested, we noted that the most recent separating employer provided a response that should have required adjudication by Department staff; however, these issues were incorrectly allowed by either an adjudicator or the system. Four of these claims were filed in Fiscal Year 2021. Because these claimants received payments during Fiscal Year 2022, we reviewed the adjudication procedures performed to determine eligibility.

The following table shows the benefits paid to the 10 claimants per the Department’s benefit system.

Claimant	Claimant Response	Employer Response	Result	Benefit Paid for Weeks Ending	Questioned Costs	FY2021 Payments	FY2022 Payments	FY2023 Payments
Claimant #1	Lack of Work/ Layoff	Still Employed	Allowed by the System	1/2/21 - 8/7/21	\$ -	\$ 2,949	\$ 1,260	\$ -
Claimant #2	Lack of Work/ Layoff	Other	Allowed by the System	6/12/21 - 8/14/21	-	1,050	1,050	-
Claimant #3	Terminated/Fired	Terminated/Fired	Allowed by Adjudicator	3/13/21 - 4/3/21, 5/1/21 - 10/2/21	244	6,772	3,102	-
Claimant #4	Terminated/Fired	Resigned/Quit	Allowed by the System	Note 1	-	2,724	10,305	-
Claimant #5	Lack of Work/ Layoff	Still Employed	Allowed by the System	7/17/21 - 8/14/21, 6/4/22 - 6/18/22, 7/2/22	1,330	-	2,079	162
Claimant #6	Resigned/Quit	Resigned/Quit	Allowed by Adjudicator	9/18/21 - 3/19/22	456	-	11,856	-
Claimant #7	Terminated/Fired	Terminated/Fired	Not Adjudicated	1/8/22 - 6/18/22, 7/16/22 - 7/23/22	456	-	10,944	912
Claimant #8	Still Employed	Resigned/Quit	Allowed by Adjudicator	3/19/22 - 5/14/22, 6/18/22, 8/6/22	168	-	1,568	137
Claimant #9	Terminated/Fired	Terminated/Fired	Denied by Adjudicator	1/29/22 - 5/7/22	396	-	5,544	-
Claimant #10	Resigned/Quit	Resigned/Quit	Allowed by Adjudicator	2/12/22 - 5/21/22	262	-	3,930	-

Note 1: Claimant was paid for the following week-ends: 6/5/21 - 7/10/21, 7/31/21, 9/11/21, 9/25/21 - 3/12/22, and 4/2/22 - 4/9/22.

For Claimants #1, #2, and #4, the employer provided additional information in its response that would support allowing the claim, such as stating that the claimant was on a temporary layoff. Due to this, the APA questioned neither eligibility nor costs. However, the issue should have been adjudicated by an individual, and not automatically allowed by the system.

For Claimants #3, #5, #6, #8, and #10, the employer or claimant provided information that would require additional information to be gathered by the Department for accurate adjudication. In each case, the APA noted that sufficient follow-up was not performed by Department staff before the claims were adjudicated.

For Claimant #7, the employer responded on January 5, 2022; however, the response was not entered into the system until January 12, 2022. The adjudicator allowed the claim on January 11, 2022, as no employer response was in the system at that time.

For Claimant #9, the application stated that she was terminated due to being unable to return to work after suffering a back injury. The employer was able to provide documentation that the claimant was terminated for absences from work. The Department correctly adjudicated the issue and denied the claim but failed to reduce the claimant's Weekly Benefit Amount (WBA) by 14 weeks, as required by Neb. Rev. Stat. § 48-626(3)(b) (Reissue 2021). Instead, the Department pushed back the first week the claimant could have been paid by 14 weeks. Due to this, \$5,544 of benefits were improperly paid.

Neb. Rev. Stat. § 48-628.10 (Reissue 2021) provides the following:

(1) An individual shall be disqualified for benefits for the week in which he or she has been discharged for misconduct connected with his or her work, if so found by the commissioner, and for the fourteen weeks immediately thereafter.

(2) If the commissioner finds that the individual was discharged for misconduct that was not gross, flagrant, and willful or unlawful but which included being under the influence of any intoxicating beverage or any controlled substance listed in section 28-405 not prescribed by a physician licensed to practice medicine or surgery while the individual is on the worksite or while the individual is engaged in work for the employer, the commissioner shall cancel all wage credits earned as a result of employment with the discharging employer.

(3) If the commissioner finds that the individual's misconduct was gross, flagrant, and willful, or was unlawful, the commissioner shall totally disqualify such individual from receiving benefits with respect to wage credits earned prior to discharge for such misconduct.

Neb. Rev. Stat. § 48-628.12 (Reissue 2021) states, in relevant part, the following:

An individual shall be disqualified for benefits:

** * * **

(2) For any benefit year beginning on or after October 1, 2018, for the week in which he or she has left work voluntarily without good cause, if so found by the commissioner, and for all subsequent weeks until the individual has earned wages in insured work in an amount of at least four times his or her weekly benefit amount and has separated from the most recent subsequent employment under nondisqualifying conditions. . . .

Good internal control requires procedures to ensure that the Department properly adjudicates each claimant's last separation from employment, as directed by the Governor's executive orders.

Without such procedures, there is an increased risk of not only benefit payments being made to ineligible claimants but also noncompliance with the Governor's executive orders.

Weekly Work Search Requirement Verification Issues

One claimant tested did not complete the mandatory work search requirements but received payment for those weeks nonetheless. The claimant certified on the application that she was a member of the Steamfitters union. Because the Department did not verify this information, documentation was not on file to support the recipient's claimed Union membership and her resulting exemption from the weekly work search requirements. The claimant did not complete work search requirements for weeks ended July 17, 2021, to December 25, 2021, and was paid \$10,512 for those weeks.

Neb. Rev. Stat. § 48-627(1) (Reissue 2021) requires claimants to perform work searches in order to be eligible to receive unemployment compensation benefits, as follows:

An unemployed individual shall be eligible to receive benefits with respect to any week, only if the Commissioner of Labor finds:

(1) He or she has registered for work at an employment office, is actively searching for work, and thereafter reports at an employment office in accordance with such rules and regulations as the commissioner may adopt and promulgate. The commissioner may, by rule and regulation, waive or alter any of the requirements of this subdivision as to individuals attached to regular jobs and as to such other types of cases or situations if the commissioner finds that compliance with such requirements would be oppressive or inconsistent with the purposes of the Employment Security Law[.]

Further, the Department has also adopted the following rules and regulations related to the work search requirements under 219 NAC 4, which states, in relevant part, the following:

002. *In order to establish his or her availability for work in the job market to which he or she is attached, a claimant shall register for work and engage in an active work search.*

* * * *

004. *A. In order for a claimant to be "available for work" within the meaning of Neb. Rev. Stat. §48-627(3), a claimant for whom the work search requirement has not been waived pursuant to 219 NAC 4(007) must actively seek work in accordance with the provisions of this Chapter. (See also, 20 C.F.R. §604.5 and 42 U.S.C.A. 503.)*

B. A claimant, for whom the work search requirement has not been waived pursuant to 219 NAC (007), shall be required to make an active and earnest search for work that is reasonably calculated to result in the earliest possible reemployment of the claimant. An active and earnest search for work shall include five reemployment activities each benefit week. At least two of a claimant's five reemployment activities each benefit week shall be applications for permanent employment. Applications for employment shall be made in a method accepted by the employer.

* * * *

007. *The Commissioner may waive the requirement that an applicant search for work if:*

* * * *

B. The applicant is eligible for referral as a member in good standing in a labor union which has a union hiring hall.

Element 22 - Information (Facts) From Others, pg. V-14, of the ET Handbook 301, 5th Edition (July 29, 2005), issued by the U.S. Department of Labor, states the following:

Often it is necessary to get relevant information from parties other than the claimant or the employer. "Others" includes, but is not limited to, physicians, union officials, school officials, public transportation officials, licensing agencies and other governmental agencies such as Welfare, Workers' Compensation, Employment Service (ES), and the United States Citizenship and Immigration Services (USCIS).

Good internal control requires procedures to ensure benefit recipients comply with weekly work search requirements.

Without such procedures, there is an increased risk of improper benefit payments being made in violation of Federal and State requirements.

Potentially Fraudulent Benefit Payments

The APA tested 12 claimants who received over \$200,000 in wages during the period July 1, 2021, through June 30, 2022. The APA also selected an additional five claimants who received over \$55,000 in wages and received over \$12,000 in unemployment benefits during the same period. Eight of the 17 claimants tested appear to have filed fraudulently for unemployment benefits. Below is a summary of the issues that we noted.

- All eight claimants received excessive wages at the same time that they were receiving unemployment benefits.
- There were numerous issues with the proof of identification provided by the claimants. See the second table below.
- In response to the Department’s “Request to Employer for Separation Information,” the employers for four claimants stated that the individuals were still employed with them, but the Department made the benefit payments nonetheless. On the other four claims, the claimants’ employers did not respond, and the Department did not follow up with them.
- All eight claims had an investigation created on the same day the claimants’ applications were filed due to the claimants having received more than \$100,000 in wages during their base periods. None of these investigations was worked by the Department, and all were closed with no decision.
- All eight claims met the criteria to have a quarterly wage crossmatch investigation created. As previously stated, the quarterly wage crossmatch had not been running in accordance with the Department’s established business rules.

The table below shows both the wages and the UI benefits received by each claimant during fiscal year 2022:

Claimant	FY 2022 Q1 Wages	FY 2022 Q2 Wages	FY 2022 Q3 Wages	FY 2022 Q4 Wages	FY 2022 Total Wages	FY 2022 UI Benefits Paid
Claimant #1	\$ 100,655	\$ 115,035	\$ 1,441,007	\$ 110,969	\$ 1,767,666	\$ 11,856
Claimant #2	211,959	211,960	188,218	188,218	800,355	12,156
Claimant #3	-	354,013	63,081	131,418	548,512	456
Claimant #4	28,947	353,575	29,597	30,597	442,716	2,280
Claimant #5	57,803	108,949	57,563	133,934	358,249	11,856
Claimant #6	58,953	82,104	79,272	100,556	320,885	11,856
Claimant #7	116,126	58,331	49,998	58,331	282,786	4,560
Claimant #8	33,071	33,963	124,023	34,174	225,231	3,192
Totals	\$ 607,514	\$ 1,317,930	\$ 2,032,759	\$ 788,197	\$ 4,746,400	\$ 58,212

The following table details the issues that we observed with the identification provided by the claimants:

	Claimant #1	Claimant #2	Claimant #3	Claimant #4	Claimant #5	Claimant #6	Claimant #7	Claimant #8
Images Agree (Note 1)	No	No	No	No	No	No	No	No
Information provided on NE Driver's License Agrees to DMV Database	Name	No	Yes		Yes	Yes		
	Issue Date Agrees	No	Yes		No	No		
	Expiration Date	No	Yes		No	No		
	Address	No	Yes		Yes	Yes		
	Date of Birth	No	Yes		Yes	Yes		
	Sex	No	Yes		Yes	Yes		
	Height	No	Yes		No	No		
	Weight	No	Yes		Yes	No		
	Eye Color	No	Yes		No	No		
	Hair Color	Yes	Yes		No	Yes		
	Governor's Name (Note 2)	No	No		Yes	No		
	Issue Length (In Years)	8.2		5.0	5.8	5.6		
	Issue Length Reasonable (Note 3)	No	Yes		No	No		
Detected by NDOL	No	No	Yes	Yes	No	No	Yes	Yes

Note 1: The APA was able to compare the images on the personal identification provided to online images of the claimants (company websites, LinkedIn, etc.). Noted here is whether those images appear to depict the same person.

Note 2: Governor Pete Ricketts was sworn into office on January 18, 2015. Therefore, any driver's license issued after that date should bear his name to the left of the operator's photograph.

Note 3: Per the Nebraska Department of Motor Vehicles (DMV) website (<https://dmv.nebraska.gov/>), the maximum length for which a Class O license can be issued is five years.

Note 4: Claimants #2, #4, #7, and #8 did not provide a Nebraska driver's license; instead, they provided either an out-of-state driver's license or a passport.

Good internal control requires procedures to ensure that: 1) unemployment benefits are being paid properly to claimants in accordance with State statute and Federal regulations; and 2) all claims, including their supporting documentation, are adequately reviewed for indicators of potential fraud.

Without such procedures, there is an increased risk of improper benefit payments to claimants.

Improper Unemployment Benefits Paid to State Employees

For the fiscal year ended June 30, 2022, the APA identified \$2,113 in improper unemployment benefits paid to Nebraska State employees for two of five claimants tested. The claimants tested did not report all State wages to the Department.

Active State workers were eligible for unemployment if their State work hours were reduced, they were terminated from other employment, or their hours from another job were reduced. In these instances, the employee was required to report State wages in order to determine the claimant's unemployment benefit. The APA compared the list of unemployment benefit claimants to the State's employee management system (Workday) to identify State employees who had also received unemployment benefits during the fiscal year ended June 30, 2022. The APA then compared the weeks these individuals were paid UI benefits to the weeks the individuals were paid wages from the State.

In total, the APA identified 27 State employees who received UI benefits during the fiscal year who also had benefit payments for weeks that overlapped with weeks they were paid wages from the State. We selected five of those employees to test.

The table below summarizes the two claimants to whom improper benefits were paid:

Claimant	Weeks Paid	Wages Reported	Wages per E1	Benefits Paid	APA Calculated Benefits to be Paid	Overpayment
Claimant #1	1/8/22 - 2/12/22	\$ 554	\$ 1,764	\$ 1,417	\$ 324	\$ 1,093
Claimant #2	3/5/22 - 3/19/22	15	1,788	1,020	-	1,020

Neb. Rev. Stat. § 48-625(1) (Reissue 2021) provides, in relevant part, the following:

[E]ach eligible individual who is unemployed in any week shall be paid with respect to such week a benefit in an amount equal to his or her full weekly benefit amount if he or she has wages payable to him or her with respect to such week equal to one-fourth of such benefit amount or less. In the event he or she has wages payable to him or her with respect to such week greater than one-fourth of such benefit amount, he or she shall be paid with respect to that week an amount equal to the individual's weekly benefit amount less that part of wages payable to the individual with respect to that week in excess of one-fourth of the individual's weekly benefit amount. In the event there is any deduction from such individual's weekly benefit amount because of earned wages pursuant to this subsection or as a result of the application of section 48-628.02, the resulting benefit payment, if not an exact dollar amount, shall be computed to the next lower dollar amount.

Neb. Rev. Stat. § 48-628.02 (Reissue 2021) states, in relevant part, the following:

(1) An individual shall be disqualified for benefits for any week in which he or she is receiving or has received remuneration in the form of:

- (a) Wages in lieu of notice or a dismissal or separation allowance;*
- (b) Vacation leave pay, including that received in a lump sum or upon separation from employment;*
- (c) Compensation for temporary disability under the workers' compensation law of any state or under a similar law of the United States;*
- (d) Retirement or retired pay, pension, annuity, or other similar periodic payment under a plan maintained or contributed to by a base period or chargeable employer; or*
- (e) A gratuity or a bonus from an employer, paid after termination of employment, on account of prior length of service, or disability not compensated under the workers' compensation law.*

(2) Payments described in subsection (1) of this section that are made in a lump sum shall be prorated in an amount which is reasonably attributable to such week. If the prorated remuneration is less than the benefits which would otherwise be due, he or she shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such remuneration. The prorated remuneration shall be considered wages for the quarter to which it is attributed.

A good internal control plan requires adequate procedures to identify improper or questionable benefits for further investigation and proper resolution.

Without such procedures, there is an increased risk of improper or fraudulent benefit payments being made.

Ineligible Payments to Inmates

Inmates are not eligible to receive UI benefits because they are unavailable for work in accordance with Neb. Rev. Stat. § 48-627(3)(f) (Reissue 2021). During testing, we identified one inmate who received benefit payments during the fiscal year ended June 30, 2022. The individual filed a UI claim on April 25, 2022 and received three weeks of benefits prior to his incarceration on May 23, 2022. Then, after his incarceration at the Reception and Treatment Center in Lincoln, he completed the required weekly certifications and received two more weeks of benefits while incarcerated.

Gross Amount Paid while Incarcerated (Questioned Costs)	Claim Filed Date	1st Week Ending Paid while Incarcerated	Last Week Ending Paid while Incarcerated	Sentence Begin Date	Release Date
\$ 848.00	4/25/2022	5/28/2022	6/4/2022	5/23/2022	Still Incarcerated

Section 48-627 provides, in relevant part, the following:

An unemployed individual shall be eligible to receive benefits with respect to any week, only if the Commissioner of Labor finds:

* * * *

(3)(a) He or she is able to work and is available for work.

* * * *

(f) An inmate sentenced to and in custody of a penal or custodial institution shall be considered unavailable for work for purposes of this section[.]

Good internal control requires procedures to ensure that inmates do not receive UI benefits while incarcerated.

Without such procedures, there is an increased risk of the Department disbursing unallowable UI payments.

Excessive Benefit Payments Received

The APA tested the five claimants who were paid the most benefits during the period July 1, 2021, through June 30, 2022, to determine if payments were made either in amounts greater than allowed for a single week or from multiple programs in the same week.

Two of the five individuals tested received payments that were not allowable for the weeks that they were paid. The first individual was paid \$4,416 for weeks ending July 18, 2020, to October 3, 2020, even though she had not been completing statutory work search requirements. Per discussion with the Department, this occurred due to a system error that left the claimant in a deferred/attached status after the work search requirements were reinstated.

The second individual was overpaid \$1,612 for weeks ending June 26, 2021, to August 14, 2021, as the claimant had reached his maximum benefit amount after a payment received for the week ending May 29, 2021. The Department stated that this overpayment had occurred due to the claimant having multiple cancelled payments, resulting in the weeks being paid out of order.

Neb. Rev. Stat. § 48-627(1) (Reissue 2021) provides the following:

An unemployed individual shall be eligible to receive benefits with respect to any week, only if the Commissioner of Labor finds:

(1) He or she has registered for work at an employment office, is actively searching for work, and thereafter reports at an employment office in accordance with such rules and regulations as the commissioner may adopt and promulgate. The commissioner may, by rule and regulation, waive or alter any of the requirements of this subdivision as to individuals attached to regular jobs and as to such other types of cases or situations if the commissioner finds that compliance with such requirements would be oppressive or inconsistent with the purposes of the Employment Security Law[.]

Neb. Rev. Stat. § 48-626(2) (Reissue 2021) states, in relevant part, the following:

For any benefit year beginning on or after October 1, 2018, any otherwise eligible individual shall be entitled during any benefit year to a total amount of benefits equal to whichever is the lesser of (a) twenty-six times his or her weekly benefit amount or (b) one-third of his or her wages in the employment of each employer per calendar quarter of his or her base period; except that when any individual has been separated from his or her employment with a base period employer under circumstances under which he or she was or could have been determined disqualified under section 48-628.10 or 48-628.12, the total benefit amount based on the employment from which he or she was so separated shall be reduced by an amount determined pursuant to subsection (3) of this section, but not more than one reduction may be made for each separation. In no event shall the benefit amount based on employment for any employer be reduced to less than one benefit week when the individual was or could have been determined disqualified under section 48-628.12.

Good internal control requires procedures to ensure that claimants comply with the work search requirements set out in § 48-627(1) and do not exceed their maximum benefit amounts, as calculated pursuant to § 48-626(2).

Without such procedures, there is an increased risk of making inappropriate benefit payments.

We recommend the Department implement procedures to prevent the payment of improper UI benefits by ensuring compliance with applicable State and Federal requirements. At a minimum, those procedures should ensure the following: 1) proper adjudication actions – including wage crossmatches, investigations into suspect separation from employment information, and verification of compliance with weekly work search requirements – are undertaken; 2) all claims, including their supporting documentation, are adequately reviewed for indicators of potential fraud; 3) neither ineligible State employees nor inmates receives benefit payments; and 4) recipients do not exceed the maximum benefit amounts permitted by statute.

Department Response: The APA's finding of a 33.43% dollar error rate is not based on a statistical sample and overstates the error rate. USDOL uses a scientific sampling method. Nebraska has a lower improper rate than the national average (16.255% vs. 21.536%). Using that same USDOL directed sampling and methodology, the Nebraska fraud rate for FY 2022 was substantially lower than the national average (NE – 4.775%, US 7.711%). While issues remain with the wage crossmatches run, wage crossmatches were run in FY22 and 474 wage crossmatches were established. NDOL provided the APA its general rules for the crossmatch, but it failed to provide the exceptions. If there is an existing NDNH, SDNH, or wage crossmatch investigation, a new investigation does not create. Of the 18 claimants identified by the APA 10 of the claimants had previously established open investigations that excluded them from future wage crossmatches.

APA Response: As previously stated, we randomly selected 40 UI benefit payments to test, which is an acceptable method of sampling per auditing standards. The extrapolation method used is also in accordance with auditing standards.

On August 3, 2022, we inquired about claims tested that met the Department's requirements for having an intrastate quarterly crossmatch investigation created by the system but failed to have such an investigation created. The Department responded on September 7, 2022, that "the crossmatch was not running in accordance with NDOL's established business rules," and personnel were "working with the vendor to get the crossmatches running automatically again in accordance with the business rules." On September 16, 2022, we informed the Department that a total of 18 claims did not have an intrastate quarterly crossmatch investigation created, and we would address that deficiency in a finding. The Department responded on September 21, 2022, that it agreed with the finding.

3. Lack of Payroll Segregation of Duties and Other Issues

The State's accounting system, EnterpriseOne (E1), does not have an established segregation of duties for payroll processing. Therefore, employees with access to process payroll are able to perform all procedures without a secondary individual being required to approve those transactions. Accordingly, the Department should have compensating procedures in place, such as a documented review of the final payroll register, along with changes to pay rates and other payroll information, by an individual without payroll access to ensure that no one individual is able to conceal errors or irregularities.

The Department worked with the Department of Administrative Services (DAS) to process payroll through the Shared Services program. The Department prepared the payroll, and DAS was involved in making necessary changes to, as well as performing external reviews of, the payroll – including certification that the payroll was ready to be posted to the general ledger. However, the Department did not perform a reconciliation of the payroll register to the general ledger to ensure that payroll processed by DAS was accurate and complete after each pay period. Upon request from the APA, the Department provided a reconciliation for the February 2022 pay period tested, which was completed after the fiscal year concluded. Furthermore, seven Department employees had access to

perform all procedures within the system, including one-time overrides of pay rates, hours worked, and type of earnings paid (such as vacation, sick leave, etc.), and there were no documented procedures to identify unapproved changes by those individuals.

Department employees use E1 to record time worked and leave used. The system did not accurately track the approval of timesheets. Supervisors could set up delegates in the system to approve timesheets and leave requests should the supervisor be unavailable. If a delegate approved an employee timesheet, the system would record the assigned supervisor as the approver. Therefore, the system did not record the actual approver of the timesheet. Furthermore, there was no audit trail for delegates in E1.

Additionally, delegates could alter and approve their own timesheets, and supervisors were able to delete delegates without any record of the assignment. Consequently, the Department lacked a compensating control for documenting the actual approver of timesheets.

The Department had \$20,793,715 in payroll expenditures during the fiscal year ended June 30, 2022.

A good internal control plan requires an adequate segregation of duties to ensure no one individual is in a position both to perpetrate and to conceal errors or irregularities. This would require someone without payroll access to perform a documented review of payroll – including a review of timesheets and leave usage – to ensure that it is proper. A good internal control plan also requires procedures to ensure that the approval of timesheets is documented accurately for subsequent review.

Without an adequate segregation of duties, there is an increased risk of overpayments, improper payments, and errors or irregularities occurring and not being detected.

A lack of segregation of duties over payroll was also noted in our fiscal year 2021 attestation and the previous ACFR report. The Summary Schedule of Prior Audit Findings lists the status of this finding as complete. Title 2 CFR § 200.511(a) (January 1, 2022) requires the auditee to prepare a summary schedule of prior audit findings. Per subsection (b)(2) of that same regulation, “When audit findings were not corrected or were only partially corrected, the summary schedule must describe the reasons for the finding’s recurrence and planned corrective action, and any partial corrective action taken.”

We recommend the Department implement procedures to have an individual without payroll access, or a DAS staff person through the Shared Services program, perform a documented review of the payroll register, timesheets, leave usage, and changes to pay rates for accuracy and reasonableness. We also recommend that, until E1 records approval of timesheets accurately, the Department should implement procedures for documenting the supervisory review and approval of timesheets outside of the system.

Department Response: NDOL recognizes that some payroll processes do not have documented oversight reviews and reasonableness tests. The Department is establishing a process improvement team to investigate and identify risks. As a part of this process improvement, the Department is investigating the possibility to reduce all payroll access allowing Shared Services to make all changes and overrides. Then, the Department would review the changes and overrides for accuracy. A monthly delegate review process has been established as of February 2023.

* * * * *

Our audit procedures are designed primarily on a test basis and, therefore, may not bring to light all weaknesses in policies or procedures that may exist. Our objective is, however, to use our knowledge of the Department and its interaction with other State agencies and administrative departments gained during our work to make comments and suggestions that we hope will be useful to the Department.

This communication is intended solely for the information and use of management, the Governor and State Legislature, others within the Department, Federal awarding agencies, pass-through entities, and management of the State of Nebraska and is not suitable for any other purposes. However, this communication is a matter of public record, and its distribution is not limited.



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