



Office of the Washington State Auditor  
Pat McCarthy

# Accountability Audit Report

# Employment Security Department

For the period July 1, 2021 through June 30, 2022

*Published September 28, 2023*

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**Office of the Washington State Auditor  
Pat McCarthy**

September 28, 2023

Cami Feek  
Commissioner  
Employment Security Department  
Olympia, Washington

**Report on Accountability**

Thank you for the opportunity to work with you to promote accountability, integrity and openness in government. The Office of the Washington State Auditor takes seriously our role of providing state and local governments with assurance and accountability as the independent auditor of public accounts. In this way, we strive to help government work better, cost less, deliver higher value and earn greater public trust.

Independent audits provide essential accountability and transparency for Department operations. This information is valuable to management, the governing body and public stakeholders when assessing the government's stewardship of public resources.

Attached is our independent audit report on the Department's compliance with applicable requirements and safeguarding of public resources for the areas we examined. We appreciate the opportunity to work with your staff and value your cooperation during the audit.

Sincerely,

Pat McCarthy, State Auditor  
Olympia, WA

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## AUDIT RESULTS

### Results in brief

This report describes the overall results and conclusions for the areas we examined. In most of the areas we examined, Department operations complied, in all material respects, with applicable state laws, regulations, and its own policies, and provided adequate controls over safeguarding of public resources.

As referenced above, we identified areas where the Department could make improvements. These recommendations are included with our report as a finding.

We also noted certain matters related to overtime that we communicated to Department management and the Commissioner in a letter dated September 25, 2023. We appreciate the Department's commitment to resolving those matters.

Additionally, as noted under the Related Reports – Special Investigations section of this report, certain matters were examined and reported as part of a separate engagement.

In keeping with general auditing practices, we do not examine every transaction, activity, policy, internal control, or area. As a result, no information is provided on the areas that were not examined.

### About the audit

This report contains the results of our independent accountability audit of the Employment Security Department from July 1, 2021 through June 30, 2022.

Management is responsible for ensuring compliance and adequate safeguarding of public resources from fraud, loss or abuse. This includes the design, implementation and maintenance of internal controls relevant to these objectives.

This audit was conducted under the authority of RCW 43.09.310, which requires the Office of the Washington State Auditor to examine the financial affairs of all state agencies. Our audit involved obtaining evidence about the Department's use of public resources, compliance with state laws and regulations and its own policies and procedures, and internal controls over such matters. The procedures performed were based on our assessment of risks in the areas we examined.

Based on our risk assessment for the year ended June 30, 2022, the areas examined were those representing the highest risk of fraud, loss, abuse, or noncompliance. In addition, as part of this audit we followed up on the special investigation report issued August 18, 2022, over a potential loss of public funds. We examined the following areas during this audit period:

- Payroll - overtime
- Paid Family Medical Leave
- WA Cares Fund Premiums
- Compliance with new legislation concerning Unemployment Insurance claims (ESSB 5193 and SB 5061)
- Accounts Payable – general disbursements, electronic funds transfers and employee reimbursements
- Unemployment compensation contributions
- Unemployment insurance claims

## SCHEDULE OF AUDIT FINDINGS AND RESPONSES

### Employment Security Department July 1, 2021 through June 30, 2022

#### **2022-001 The Employment Security Department did not have adequate internal controls to ensure it followed state requirements related to the Paid Family and Medical Leave program.**

##### *Background*

Paid Family and Medical Leave (PFML) is a statewide insurance program that the Legislature authorized in 2017. Funded by employee and employer premiums, this program provides eligible employees with up to 12 weeks of paid family or medical leave, or a combination of the two. In extreme circumstances, some employees may qualify for up to 18 weeks of paid leave. Employees can file a claim for leave directly with the Employment Security Department, which is responsible for validating qualifying events and confirming employees have worked 820 hours. Premium assessment began on January 1, 2019, and benefit claims began to be accepted on January 1, 2020.

The Department also administers the Unemployment Insurance (UI) program, which provides benefits to eligible unemployed workers. The program also provides trade adjustment assistance payments, disaster unemployment assistance, and unemployment compensation for federal employees and former service members.

In the first quarter of fiscal year 2022 (July 1, 2021, to September 30, 2021), the Department processed about 352,000 PFML claims, totaling \$271 million dollars. During this same period, the Department paid about \$2 billion for UI claims.

According to the Department, clients should not be receiving payments from both the PFML and UI programs for the same benefit week.

##### *Description of Condition*

The Department did not have adequate internal controls to ensure it followed state requirements related to the PFML program. We found the Department:

- Has not implemented processes or procedures to assess and collect PFML penalties or overpayments
- Has not implemented controls to prevent claimants from receiving PFML benefits in the same claim week where they are receiving UI benefits

## *Cause of Condition*

The Department did not have a cross-matching process in place to ensure that claimants did not receive payments for both PFML and UI in the same week. The Department plans to implement such a process in the fall of 2023.

Department staff have been tracking potential PFML overpayments and documenting whether they think they are due to mistakes or fraud. However, the Department has not yet further assess these potential overpayments because it is currently developing processes and procedures to do so. The Department expected to have an official overpayment plan in place by the end of June 2023, but it has not been implemented as of the publication of this report.

## *Effect of Condition*

Using PFML and UI payment data, we crossmatched claims that were paid during the same benefit period to determine whether clients received payments for both programs. We found 1,613 instances, totaling \$1 million, where it appeared that the Department paid claimants both PFML and UI benefits during the same period.

We judgmentally selected and examined the Department's supporting documentation for 30 of the 1,613 crossmatches. In all 30 cases, we found claimants improperly received payments for PFML, totaling \$26,469, because they were already receiving UI benefits.

Based on our review, it is likely that the Department improperly paid all \$1 million in PFML benefits referenced above to claimants.

Claimants should be responsible for repaying the Department the amounts we identified in our testing. However, the Department does not currently have a system in place to assess and collect PFML penalties and overpayments. Under state law, the Department must issue a notice of overpayment assessment to clients. In addition, the Department has two years after the end of or final payment made on a person's applicable eligibility period to assess an overpayment. The longer these overpayments remain, the less likely the Department is to collect them.

## *Recommendation*

We recommend the Department:

- Implement internal controls to detect and prevent claimants from receiving benefits from both PFML and UI in the same claim period
- Implement its official plan and any other necessary processes and procedures for handling PFML penalties and overpayments

## ***Department's Response***

*The Department concurs with the finding.*

*We would like to thank the Office of the State Auditor (SAO) for their work on this area to ensure paid family and medical leave is properly administered to eligible employees in Washington state.*

*We have outlined our response below with respect to the recommendations made by SAO.*

***SAO recommendation:*** *Implement internal controls to detect and prevent claimants from receiving benefits from both PFML and UI in the same claim period.*

*At this time, there are a number of manual controls in place, including:*

- Receiving and working referrals from internal and external partners.*
- Coordination between UI adjudicators and Paid Leave Compliance teams.*
- Running a crossmatch between UI and Paid Leave to identify claims for investigation.*

*The work that remains to fully implement the prevention and detection of customers receiving benefits from Paid Leave and UI in the same week will require prioritization and resourcing from across the agency. Leave and Care Division is working with the Agency Performance Leader to get the project initiated and prioritized in the Agency Strategy Portfolio.*

***SAO recommendation:*** *Implement its official plan and any other necessary processes and procedures for handling PFML penalties and overpayments.*

*The Department is currently working through implementing a series of changes that enable the implementation of benefit overpayments and the assessment of penalties and interest. One of those changes is the migration of systems to the cloud, a project that's slated to complete in February 2024. Once complete, we intend to begin development on benefit overpayment systems.*

## ***Auditor's Remarks***

We appreciate the steps the Department is taking to resolve this issue. We will review the condition during our next audit.



## *Applicable Laws and Regulations*

The Office of Financial Management's *State Administrative & Accounting Manual* (SAAM), Section 20.15 establishes the responsibilities for identifying risks and establishing, maintaining, and reviewing agency internal control systems.

RCW 50A.15.090, Repayment and recovery of benefit overpayments, states in part:

(1) An individual who is paid any amount as benefits under this title to which he or she is not entitled shall, unless otherwise relieved pursuant to this section, be liable for repayment of the amount overpaid. The department shall issue an overpayment assessment setting forth the reasons for and the amount of the overpayment.

(5) When an individual fails to repay an overpayment assessment that is due and fails to arrange for satisfactory repayment terms, the commissioner shall impose an interest penalty of one percent per month of the outstanding balance. Interest shall accrue immediately on overpayments assessed pursuant to RCW 50A.15.060 and shall be imposed when the assessment becomes final. For any other overpayment, interest shall accrue when the individual has missed two or more of the individual's monthly payments either partially or in full.

(7) The department shall: (a) Conduct social security number cross-match audits or engage in other more effective activities that ensure that individuals are entitled to all amounts of benefits that they are paid; and (b) engage in other detection and recovery of overpayment and collection activities.

RCW 50A.15.100, Unemployment compensation, industrial insurance, and disability insurance laws—Effect on title.

(1) Leave from employment under this title is in addition to leave from employment during which benefits are paid or are payable under Title 51 RCW or other applicable federal or state industrial insurance laws.

(2) An employee is disqualified from receiving family or medical leave benefits under this title for any week in which the employee is receiving, has received, or will receive compensation, as determined by the governing state or federal agency under:

- (a) Title 50 RCW;
- (b) RCW 51.32.060;
- (c) RCW 51.32.090; or
- (d) Any other applicable federal unemployment compensation, industrial insurance, or disability insurance laws.

## RELATED REPORTS

### Financial

We perform an annual audit of the statewide basic financial statements, as required by state law (RCW 43.09.310). Our opinion on these financial statements is included in the Annual Comprehensive Financial Report (ACFR). The ACFR reflects the financial activities of all funds, organizations, institutions, agencies, departments and offices that are part of the state's reporting entity. That report is issued by the Office of Financial Management in December of each year and can be found at [www.ofm.wa.gov](http://www.ofm.wa.gov).

### Federal programs

In accordance with the Single Audit Act, we annually audit major federal programs administered by the state of Washington. Rather than perform a single audit of each agency, we audit the state as a whole. The results of that audit are published in a report issued by the Office of Financial Management in March of each year.

### Special investigations

During the current audit period, we issued a report pursuant to the State Employee Whistleblower Act (Chapter 42.40 RCW). That report is available on our website, <http://portal.sao.wa.gov/ReportSearch>.

## INFORMATION ABOUT THE DEPARTMENT

The Department is led by a Governor-appointed Commissioner. The Department has approximately 1,400 employees in offices across the state and operates on a biennial budget of approximately \$626 million.

The Department administers Washington State's unemployment insurance program. They processed approximately \$1.2 billion in Unemployment Insurance Premium payments and approximately \$43 billion in taxable wage information from employers. The Department paid out more than \$1 billion in Unemployment Insurance benefits to over 210,000 individuals to assist them during the transition to a new job.

### Contact information related to this report

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*Information current as of report publish date.*

### Audit history

You can find current and past audit reports for the Employment Security Department at <http://portal.sao.wa.gov/ReportSearch>.

## ABOUT THE STATE AUDITOR'S OFFICE

The State Auditor's Office is established in the Washington State Constitution and is part of the executive branch of state government. The State Auditor is elected by the people of Washington and serves four-year terms.

We work with state agencies, local governments and the public to achieve our vision of increasing trust in government by helping governments work better and deliver higher value.

In fulfilling our mission to provide citizens with independent and transparent examinations of how state and local governments use public funds, we hold ourselves to those same standards by continually improving our audit quality and operational efficiency, and by developing highly engaged and committed employees.

As an agency, the State Auditor's Office has the independence necessary to objectively perform audits, attestation engagements and investigations. Our work is designed to comply with professional standards as well as to satisfy the requirements of federal, state and local laws. The Office also has an extensive quality control program and undergoes regular external peer review to ensure our work meets the highest possible standards of accuracy, objectivity and clarity.

Our audits look at financial information and compliance with federal, state and local laws for all local governments, including schools, and all state agencies, including institutions of higher education. In addition, we conduct performance audits and cybersecurity audits of state agencies and local governments, as well as state whistleblower, fraud and citizen hotline investigations.

The results of our work are available to everyone through the more than 2,000 reports we publish each year on our website, [www.sao.wa.gov](http://www.sao.wa.gov). Additionally, we share regular news and other information via an email subscription service and social media channels.

We take our role as partners in accountability seriously. The Office provides training and technical assistance to governments both directly and through partnerships with other governmental support organizations.

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