



Office of the Washington State Auditor
Pat McCarthy

Accountability Audit Report

Employment Security Department

For the period July 1, 2022 through June 30, 2023

Published November 14, 2024

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

November 14, 2024

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 both the public and agency management with valuable information, and this audit reviews the operations of two very important programs, Unemployment Insurance and Paid Family and Medical Leave. I want to emphasize the importance of our finding, that the Department has not met its obligation under state law to ensure these benefits remain mutually exclusive. While the total amount of dual benefits paid is not high relative to the size of these programs, Paid Family and Medical Leave is funded by working people and their employers. Any improperly paid benefits represent an unnecessary cost to them and a reduction in available funds for eligible people. Because it affects the program's integrity in the eyes of the public, I want to underscore the urgency of resolving this issue.

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 October 31, 2024. We appreciate the Department's commitment to resolving those matters.

During the audit certain matters came to our attention that are currently under investigation.

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, 2022 through June 30, 2023.

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, 2023, the areas examined were those representing the highest risk of fraud, loss, abuse, or noncompliance. We examined the following areas during this audit period:

- Paid Family Medical Leave program
- Unemployment Insurance – overpayment waivers
- Procurement/Contracts – IT software purchases
- Accounts payable – use of credit cards
- Payroll – overtime
- Payments in lieu of Unemployment Compensation contributions

SCHEDULE OF AUDIT FINDINGS AND RESPONSES

Employment Security Department July 1, 2022 through June 30, 2023

2023-001 The Employment Security Department did not have adequate internal controls over and did not follow 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, confirming employees have worked 820 hours and calculating benefit amounts. Premium assessment began on January 1, 2019, and the Department began to accept benefit claims 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 fiscal year 2023, the Department processed about 2.2 million PFML claims totaling \$1.3 billion dollars. During this same period, the Department paid about \$1.2 billion in UI claims.

State law prohibits clients from receiving PFML benefits if they receive UI payments for the same benefit week.

Description of Condition

The Department did not have adequate internal controls over and did not follow state requirements related to the PFML program.

PFML Overpayments, Penalties and Interest

We found the Department did not implement:

- Processes or procedures to assess and collect penalties and interest related to PFML premiums
- Processes or procedures to assess and collect PFML benefit overpayments
- Internal controls to prevent claimants from receiving PFML benefits in the same claim week they receive UI benefits

PFML Weekly Claim Payments

We found the Department did not effectively monitor weekly claim payments that Benefits Specialists manually processed.

Cause of Condition

PFML Overpayments, Penalties and Interest

The Department did not have a crossmatching process during the audit period to ensure that claimants did not receive payments for both PFML and UI in the same week. The Department began its crossmatching process in January 2023.

Although the Department identified potential overpayments as a result of crossmatch processes, it did not assess any overpayments. The Department similarly has not begun assessing penalties or interest relating to employer premiums. The Department expected to have an official overpayment plan in place by the end of June 2023, but has not implemented it at the time of report.

PFML Weekly Claim Payments

The Department's current PFML payment processing allows Benefits Specialists to bypass the system's automated payments to manually make corrections and updates. Benefits Specialists use a calculation spreadsheet separate from the benefits system to calculate payment amounts, which may differ from the system's benefits calculation. The Department does not systematically review manual payments before processing them and cannot correct errors after making payments.

Effect of Condition

PFML Overpayments, Penalties and Interest

Using PFML and UI payment data, we crossmatched claims that the Department paid during the same benefit period to determine whether clients received payments for both programs. We found 2,270 instances, totaling \$1.9 million, in which 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 21 of the 2,270 crossmatches. In all 21 cases, we found claimants improperly received payments for PFML, totaling \$21,077, because they were already receiving UI benefits.

Based on our review, it is likely that the Department improperly paid all \$1.9 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 to assess and collect PFML penalties and overpayments. State law requires the Department to issue a notice of overpayment assessment to clients. Additionally, the Department has a two-year period 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.

PFML Weekly Claim Payments

We recalculated all PFML weekly benefit and payment amounts the Department paid in fiscal year 2023. We found 32,750 claims, totaling \$27,481,635, that varied from our calculation of weekly benefit and payment amount.

We judgmentally selected and examined the Department's supporting documentation for 28 of the claims that appeared as variances. In 13 of the claims, we found the Department paid \$2,240 more than the correctly calculated benefit amount. We reviewed system documentation that showed the identified 13 claim payments that Benefits Specialists processed manually rather than the automated system.

Because this finding reports noncompliance with state law, the Office of Financial Management is required by RCW 43.09.312 (1) to submit the agency's response and plan for remediation to the Governor, the Joint Legislative Audit and Review Committee and the relevant fiscal and policy committees of the Senate and House of Representatives.

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
- Its official plan and any other necessary processes and procedures for handling PFML penalties, interest and overpayments
- A systematic review of manual changes to PFML weekly claim payments

Department's Response

ESD thanks the State Auditor's office for their work to ensure public funds and assets are protected, accounted for, and applicable laws, regulations and policies are followed.

Concerning the recommendations:

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

ESD has manual controls in place to detect claimants receiving benefits from both PFML and UI in the same claim period. With these controls, the Department is meeting statutory requirements.

SAO performed an Accountability audit over this same area for the period of July 1, 2021-June 2022. The Department had an exit conference with SAO in September 2023 when this issue was discussed.

ESD had already implemented a cross-matching process in January 2023.

ESD submitted a corrective action plan which involved further planned development work to begin in July 2024 as we had requested additional resources in the Department's decision package. ESD estimated at that time, if granted, the completion date to be December 2024.

SAO conducted an entrance conference for this audit on March 14, 2024, 6 months after the previous audit, in which they chose to re-audit this area with an audit period of July 1, 2023-June 30, 2024.

SAO was aware the additional work would require approval of the funding package which would not be granted until July 2024, and ESD's corrective action was not estimated to be completed until December 2024. It is typical for a corrective action to take time to implement as it involves allocation of personnel, IT systems and funds. Accordingly, the correction could not have been implemented fully if audited within the next year as SAO did.

The department has shared regularly through its advisory committee the prioritization of system completion work, including automation of internal controls discussed here. At this time, this work is likely to be completed by December 2025. The department notes that the timeline was delayed because of difficulty filling and onboarding key vacancies after funding was provided and the need to complete IT enabling work to lay the foundation for the successful completion of projects.

Through SAO's work on this audit, they confirmed in their judgmental sample of 21 claimants that the crossmatching process implemented by the agency accurately identified claimants receiving both UI and PFML payments.

The Department is additionally focused on strategies to prevent claimant mistakes, including:

- Requesting resources in FY 26-27 to establish a team within our Customer Compliance Division focused on customers who apply for multiple programs to provide direct assistance up-front and further prevent risk of overpayment.*
- Making the prohibition of simultaneous receipt of benefits clearer and more prominent in both programs' web pages and materials.*

Finally, ESD notes the \$1.9m cited in the finding amounts to 0.0014% of the \$1.3b PFML claims the agency processed during SFY23.

- **ESD implement its official plan and any other necessary processes and procedures for handling PFML penalties, interest and overpayments.***

Benefit overpayments, penalties, and interest were scopes of work included in our decision package for FY 23 – 25. We received funding July 2024 and are in the process of hiring the staff required to complete the work. Technical development on benefit overpayments (including determination/assessment, waivers, and collection) is slated to begin in January 2025 and complete in December 2025.

- **A systematic review of manual changes to PFML weekly claim payments***

The Department is conducting a systematic review of manual changes. The goal of this work is to reduce instances and frequency of manual entries. Manual intervention and data entry can lead to errors.

The department has identified and is remedying the most common causes for manual work in its project portfolio and release schedule, including:

- *Establishing the ability for adjudicators to update hours and wages in the system to recalculate a claimant's weekly benefit amount (WBA) and eliminate a process that is presently conducted manually. This is an active project and anticipated to be live in November.*
- *Establishing the ability for adjudicators to update weekly claim corrections and redeterminations in the system. That work is scheduled to deploy in the Spring of 2025.*

Auditor's Remarks

Although the Department has begun to manually identify claimants receiving both PFML and UI benefits, it is not following state law by assessing overpayments and recovering improper payments.

We reaffirm our finding and will review the status of the Department's corrective action 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.45.010 Employer Penalties, states in part:

(1) An employer who willfully fails to make the required reports is subject to penalties as follows: (a) For the second occurrence, the penalty is seventy-five dollars; (b) for the third occurrence, the penalty is one hundred fifty dollars; and (c) for the fourth occurrence and for each occurrence thereafter, the penalty is two hundred fifty dollars.

(2) An employer who willfully fails to remit the full amount of the premiums when due is liable, in addition to the full amount of premiums due and amounts assessed as interest under RCW 50A.45.025, to a penalty equal to the premiums and interest.

(5) The department shall enforce the collection of penalties through conference and conciliation.

RCW 50A.15.020 Benefit – Amount and duration, states in part:

(5) The weekly benefit for family and medical leave shall be determined as follows: If the employee's average weekly wage is: (a) Equal to or less than one-half of the state average weekly wage, then the benefit amount is equal to ninety percent of the employee's average weekly wage; or (b) greater than one-half of the state average weekly wage, then the benefit amount is the sum of: (i) Ninety percent of one-half of the state average weekly wage; and (ii) fifty percent of the difference of the employee's average weekly wage and one-half of the state average weekly wage.

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 crossmatch 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.

SUMMARY SCHEDULE OF PRIOR AUDIT FINDINGS
**Employment Security Department
 July 1, 2022 through June 30, 2023**

This schedule presents the status of findings reported in prior audit periods.

Audit Period: July 1, 2021 through June 30, 2022	Report Ref. No.: 1033339	Finding Ref. No.: 2022-001
Finding Caption: 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. 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. 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 Unemployment Insurance claims. According to the Department, clients should not be receiving payments from both the PFML and UI programs for the same benefit week. We found the Department: <ul style="list-style-type: none"> • 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 We made the following recommendations to the Department: <ul style="list-style-type: none"> • 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 		
Status of Corrective Action: (check one) <input type="checkbox"/> Fully Corrected <input checked="" type="checkbox"/> Partially Corrected <input type="checkbox"/> Not Corrected <input type="checkbox"/> Finding is considered no longer valid		

Corrective Action Taken:

PFML investigations started in July 2023. The Analytics and Intelligence team creates a spreadsheet that shows the UI and PFML claimants who are being paid by both programs for the same week. This information is shared with the PFML investigations manager who assigns the cases out to his team to be investigated. In January 2024, the team started assessing misrepresentation to the appropriate cases.

ESD requested and received additional resources to complete the balance of remaining legal requirements in the Paid Leave law. ESD is currently developing features related to recognizing benefit overpayments, which are foundational prerequisites for assessing and collecting overpayments. The development efforts for the assessment and collection of overpayments will begin in January 2025 and are anticipated to continue through the calendar year. This work will be released in phases as the functionality is completed.

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, agencies, departments and offices that are part of the state's reporting entity. The results of that audit are published in a report issued by the Office of Financial Management in December of each year and can be found at www.ofm.wa.gov.

Federal grant 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.

Performance audits

Initiative 900, approved by voters in 2005, gives the State Auditor's Office the authority to conduct independent performance audits of state and local government entities. Performance audits may include objective analysis on ways to improve program performance and operations, reduce costs and identify best practices.

We issued the separate performance audit report, *Evaluating Customer Service at Washington's Department of Employment Security*, which is available on our website, <http://portal.sao.wa.gov/ReportSearch>.

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 Employment Security Department (ESD) is led by a Governor-appointed Commissioner. The Department has approximately 2,300 employees in offices across the state and operates on a biennial budget for 2023-2025 of approximately \$945.3 million.

The Department administers Washington State's unemployment insurance program. They processed approximately \$2 billion in Unemployment Insurance Premium payments. The Department paid out more than \$1.8 billion in Unemployment Insurance benefits to over 195,200 individuals to assist them during the transition to a new job.

Contact information related to this report

Address:	Employment Security Department P.O. Box 9046 Olympia, WA 98504-9046
Contact:	Joshua Summers, External Audit Manager
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Website:	www.esd.wa.gov

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.

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