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DEPARTMENT OF LEGISLATIVE SERVICES
OFFICE OF LEGISLATIVE AUDITS
MARYLAND GENERAL ASSEMBLY

Gregory A. Hook, CPA
Legislative Auditor

May 13, 2024

Senator Guy J. Guzzone, Chair
Senate Budget and Taxation Committee
Miller Senate Office Building, 3 West Wing
11 Bladen Street
Annapolis, Maryland 21401

Delegate Benjamin S. Barnes, Chair
House Appropriations Committee
Lowe House Office Building, Room 121
6 Bladen Street
Annapolis, Maryland 21401

Dear Senator Guzzone and Delegate Barnes:

The Office of Legislative Audits (OLA) has reviewed the actions taken by the Maryland Department of Labor (MDL) Division of Unemployment Insurance (DUI) to resolve the four repeat findings in our November 15, 2022 audit report. This review was conducted in accordance with a requirement specified in the April 2023 *Joint Chairmen's Report* (JCR), page 151. The JCR required that, prior to the release of \$100,000 of its administrative appropriation for fiscal year 2024, MDL must take corrective action on all repeat audit findings on or before November 1, 2023. The JCR language further provided that OLA submit a report to the budget committees listing each repeat audit finding along with a determination that each repeat finding was corrected. The OLA report is required to be submitted to allow 45 days for the budget committees to review and release the funds prior to the end of the fiscal year.

The November 15, 2022 audit report of DUI contained four repeat audit findings (findings 2, 3, 6, and 7) that were addressed by eight recommendations. In accordance with the April 2023 JCR requirement, DUI provided a status report to OLA, dated November 1, 2023, detailing certain corrective actions that had been completed and actions that were ongoing with respect to all four repeat audit findings (**Exhibit 1**). The DUI status report indicated that corrective actions had been completed for two findings and for certain elements of the remaining

two findings. We have edited DUI's status report to remove certain vendor information, as allowed by our policy.

We reviewed the DUI status report and related documentation, performed limited tests and analyses of the information, and held discussions with DUI personnel as necessary to assess the implementation status of the related recommendations. Our review did not constitute an audit conducted in accordance with generally accepted government auditing standards.

Based on our review, we determined that DUI had not yet taken sufficient actions to correct Findings 2, 3, 6, and 7. Specifically, although DUI had implemented certain elements of the recommendations related to all four findings, the actions to date did not address the entirety of each finding (**Exhibit 2**). Consequently, at the time of our review, our assessment of Findings 2, 3, 6 and 7 concluded that they were still in progress (**Exhibit 3**). Finally, we believe it is possible that untimely corrective actions by DUI may have contributed to the statute of limitations adversely impacting the appropriate resolution of certain unresolved findings.

We shared our results with DUI, which generally disagreed with our assessment based on the information it originally presented in its November 2023 status report without effectively adding any additional information. Subsequently, we reviewed our work and believe that the conclusions we present in this document, and describe above, are correct representations of the current implementation status for the repeat audit findings. We wish to acknowledge the cooperation extended to us during the review by DUI. We trust our response satisfactorily addresses the JCR requirement. Please contact me if you need additional information.

Sincerely,



Gregory A. Hook, CPA
Legislative Auditor

cc: Senator Clarence K. Lam, M.D., Senate Chair, Joint Audit and Evaluation Committee
Delegate Jared Solomon, House Chair, Joint Audit and Evaluation Committee
Joint Audit and Evaluation Committee Members and Staff
Senator William C. Ferguson IV, President of the Senate
Delegate Adrienne A. Jones, Speaker of the House of Delegates
Governor Westley W. Moore
Comptroller Brooke E. Lierman
Treasurer Dereck E. Davis
Attorney General Anthony G. Brown

Secretary Helene T. Grady, Department of Budget and Management
Secretary Portia Y. Wu, Esq., MDL
Jason Perkins-Cohen, Deputy Secretary, MDL
Margaret M. Rekstis, Acting Assistant Secretary for Unemployment Insurance, DUI
Elizabeth L. Williams, Executive Director, Office of Administration, MDL
Samuel K. Pannoh, Director, Office of Program Analysis and Audit, MDL
Jamie B. Mangrum, Director, Office of Communications and Media Relations, MDL
Likivu Speaks, Director of Fiscal & Support Services, DUI
Joan M. Peacock, Manager, Audit Compliance Unit, Department of Budget and
Management
Victoria L. Gruber, Executive Director, Department of Legislative Services
Emily R. Haskel, Policy Analyst, Department of Legislative Services

Exhibit 1 to May 13, 2024 Letter to Joint Chairmen

Benefit Payments

Finding 2

DUI did not have comprehensive procedures to ensure that individuals filing claims using a foreign Internet Protocol (IP) address were eligible to receive benefits, including 3,724 claimants that received benefit payments totaling \$3.6 million.

Recommendation 2c

We recommend that DUI investigate the foreign IP addresses identified in this finding and take corrective action for any ineligible claimants and benefits identified (repeat).

Status of Recommendation 2c			
Status as of 11/1/2023	Completed	Completion Date:	9/1/2023
Please provide details of corrective action taken.	The claims identified in this audit have been investigated with LexisNexis. Unfortunately, all claims were paid outside the statute of limitation of 3 years. We completed the recommendation on 9/1/2023.		

Finding 3

DUI did not ensure claimants who were full-time students were eligible for benefits, and that all claimants were enrolled in the Maryland Workforce Exchange System, as required.

Recommendation 3a

We recommend that DUI establish procedures, such as periodic matches to State higher education institution enrollment records, to identify and follow up on claimants who are attending school full-time but fail to disclose it (repeat).

Status of Recommendation 3a			
Status as of 11/1/2023	In Progress	Completion Date:	
Please provide details of corrective action taken.	A. Despite reaching out to various agencies, DUI couldn't obtain detailed data because of privacy law compliance. We are unable to perform periodic matches with State higher education institution enrollment records due to FERPA restrictions.		

Recommendation 3b

We recommend that DUI follow up on all applicants who state they are attending school to determine whether it impacts eligibility for unemployment benefits (repeat).

Exhibit 1 to May 13, 2024 Letter to Joint Chairmen

Status of Recommendation 3b			
Status as of 11/1/2023	Completed	Completion Date:	7/1/2023
Please provide details of corrective action taken.	B. DUI resumed adjudicating issues involving school attendance on 7/1/2023.		

Recommendation 3c

We recommend that DUI verify that all claimants comply with applicable enrollment requirements, including the Maryland Workforce Exchange system (repeat).

Status of Recommendation 3c			
Status as of 11/1/2023	In Progress	Completion Date:	2/29/2024
Please provide details of corrective action taken.	C. PIR 69445, which aims to ensure claimant compliance with enrollment requirements, including the Maryland Workforce Exchange (MWE) system, is currently ongoing. After completion, the PIR will collaborate with MWE system vendor to generate a report of individuals who haven't registered on MWE, and this report will be shared with DUI. Subsequently, BEACON will generate action items for each listed claimant, reminding them to complete their MWE registration and providing a direct link to MWE. The expected completion date for this process is February 29, 2024.		

Recommendation 3d

We recommend that DUI take timely and appropriate corrective action for any potentially ineligible claimants or benefits identified, including those noted in this finding (repeat).

Status of Recommendation 3d			
Status as of 11/1/2023	In Progress	Completion Date:	12/31/2023
Please provide details of corrective action taken.	D. DUI will investigate the findings and apply appropriate corrective measures against claimants who are ineligible for benefits, including those highlighted in the audit finding. Currently, we are in the process of reviewing the claims mentioned in this audit finding. It's worth noting that many of these claims either did not receive payment or are over three years old, which exceeds our statute of limitations. We anticipate concluding this task by December 31, 2023.		

Exhibit 1 to May 13, 2024 Letter to Joint Chairmen

Claims Processing

Finding 6

DUI did not adequately review regular claims and adjudications processed by claims center DUI employees and temporary staff, and output reports of manual wage entries could not be generated from BEACON for verification purposes.

Recommendation 6a

We recommend that DUI ensure that supervisors at claim centers perform the required reviews of claims processed (repeat).

Status of Recommendation 6a			
Status as of 11/1/2023	Completed	Completion Date:	08/31/2023
Please provide details of corrective action taken.	A. Review of claims and adjudication issues resumed in August 2022.		

Finding 7

DUI did not establish sufficient controls over reissued debit cards, and did not ensure the proper disposition of funds remaining on expired debit cards.

Recommendation 7a

We recommend that DUI establish procedures to ensure all reissued debit cards are subject to an independent review and approval (repeat).

Status of Recommendation 7a			
Status as of 11/1/2023	Completed	Completion Date:	05/21/2021
Please provide details of corrective action taken.	1. DUI stopped issuing new debit cards on 5/21/21. The deadline to order a replacement debit card from the sponsoring bank was 1/5/2022. DUI has updated BEACON and is waiting for the conclusion of the exit agreement with the Bank to clawback the funds on the debits.		

Exhibit 1 to May 13, 2024 Letter to Joint Chairmen

Recommendation 7c

We recommend that DUI establish procedures to ensure unspent funds remaining on debit cards are returned to DUI or reported to the State Comptroller as unclaimed property in accordance with the *Maryland Unemployment Benefits Debit Card Deposit Agreement* (repeat).

Status of Recommendation 7c			
Status as of 11/1/2023	In Progress	Completion Date:	
Please provide details of corrective action taken.	C. DUI is working with the bank to resolve the conflict concerning clawback of the funds. Once the exit agreement is concluded, DUI will process the funds clawback and remit federal money to USDOL and keep the state money in UI Trust Fund account.		

Exhibit 2 to May 13, 2024 Letter to Joint Chairmen

Status of Repeat Findings in OLA's November 15, 2022 Audit Report on the Maryland Department of Labor – Division of Unemployment Insurance (DUI)

Prior Recommendations Pertaining to Repeat Findings	Status Based on OLA Review
Benefit Payments 2. We recommend that DUI c. investigate the foreign IP addresses identified in this finding and take corrective action for any ineligible claimants and benefits identified.	Not Resolved (In Progress)
Benefit Payments 3. We recommend that DUI a. establish procedures, such as periodic matches to State higher education institution enrollment records, to identify and follow up on claimants who are attending school full-time but fail to disclose it.	Not Resolved (In Progress)
b. follow up on all applicants who state they are attending school to determine whether it impacts eligibility for unemployment benefits.	Resolved
c. verify that all claimants comply with applicable enrollment requirements, including the Maryland Workforce Exchange system.	Not Resolved (In Progress)
d. take timely and appropriate corrective action for any potentially ineligible claimants or benefits identified, including those noted in this finding.	Not Resolved (In Progress)
Claims Processing 6. We recommend that DUI a. ensure that supervisors at claim centers perform the required reviews of claims processed.	Not Resolved (In Progress)
Claims Processing 7. We recommend that DUI establish procedures to ensure a. all reissued debit cards are subject to an independent review and approval.	Not Resolved (In Progress)
c. unspent funds remaining on debit cards are returned to DUI or reported to the State Comptroller as unclaimed property in accordance with the aforementioned Agreement.	Not Resolved (In Progress)

Exhibit 3 to May 13, 2024 Letter to Joint Chairmen

OLA's Assessments Regarding Repeat Findings and Recommendations That Were Not Resolved

Prior Report Recommendation – Finding 2

We recommend that DUI

- c. investigate the foreign IP addresses identified in this finding and take corrective action for any ineligible claimants and benefits identified (repeat).**

Status: Not Resolved

Our review disclosed that DUI could provide no documentation of any investigation it had conducted into the IP addresses in question, including the timing and results of any such investigation. DUI stated in its status report that it had completed implementation of this recommendation on September 1, 2023, but DUI also indicated in its response that all claims related to the foreign IP addresses identified in the finding were paid outside of the three-year statute of limitations. Although DUI now asserts that no action can be taken to recover any improper benefit payments identified, during the course of our audit many of the IP addresses in question were provided to DUI (prior to expiration of the three-year statute limitation). Furthermore, as of the date of our audit report, November 15, 2022, approximately \$609,454 in claim payments relating to the IP addresses in question had not yet exceeded the statute of limitations and could have been subject to corrective action if found to be improper in a timely manner. Finally, although the statute of limitations may have restricted recovery of certain prior claim payments, the investigation and identification of any ineligible claimants associated with the IP addresses in question, regardless of subsequent recovery, may have helped DUI ensure that future improper payments were not made to the same claimants.

Prior Report Recommendation – Finding 3

We recommend that DUI

- a. establish procedures, such as periodic matches to State higher education institution enrollment records, to identify and follow up on claimants who are attending school full-time but fail to disclose it (repeat);**
- c. verify that all claimants comply with applicable enrollment requirements, including the Maryland Workforce Exchange system (repeat); and**
- d. take timely and appropriate corrective action for any potentially ineligible claimants or benefits identified, including those noted in this finding (repeat).**

Status: Not Resolved

Our review disclosed that DUI has not established procedures to identify and follow up on claimants who are attending school full-time but fail to disclose it, and in its status report DUI indicated that implementation of our recommendation to do so is in progress. DUI also stated that despite reaching out to various agencies, DUI could not obtain detailed data because of

Exhibit 3 to May 13, 2024 Letter to Joint Chairmen

privacy law compliance. DUI further stated that it was unable to perform periodic matches with State higher education institution enrollment records due to federal regulations. DUI advised us that it held conversations with multiple educational agencies and institutions within Maryland all of which indicated that they would not be able to provide the requested data. However, we were advised that DUI had no formal documentation supporting this assertion, including specific data requested, related responses received, all options discussed, and meeting participants. While we recognize that federal regulations restrict access to certain student data, those regulations include exceptions, as well as provisions for directory information. For example, simple student directories may exist for a particular institution's community members, to which DUI may seek authorization to access. With no specific documentation provided to us by DUI, it was unclear as to the extent to which DUI pursued such potential options.

Our review disclosed that while DUI has attempted to correct system issues to identify claimants who had failed to complete the required Maryland Workforce Exchange registration, technical issues persist and that process is ongoing. Furthermore, our review disclosed that DUI is still in the process of reviewing the claimants and benefits identified in this finding. It should be noted that with the passage of time, recovery of any improper benefit payments may be restricted by the statute of limitations mentioned above in Finding 2.

Prior Report Recommendation – Finding 6

We recommend that DUI

- a. ensure that supervisors at claim centers perform the required reviews of claims processed (repeat).**

Status: Not Resolved

Our review disclosed that DUI did not ensure that all required supervisory reviews were being conducted, as we found that work performed by certain claims processors was not subject to supervisory review. Specifically, we identified claim processors at three of the four DUI claim centers whose work was not included in the supervisory reviews for the week we selected for testing.

Prior Report Recommendation – Finding 7

Recommendation 7

We recommend that DUI establish procedures to ensure

- a. all reissued debit cards are subject to an independent review and approval (repeat); and**
- c. unspent funds remaining on debit cards are returned to DUI or reported to the State Comptroller as unclaimed property in accordance with the aforementioned *Agreement* (repeat).**

Exhibit 3 to May 13, 2024 Letter to Joint Chairmen

Status: Not Resolved

Our review disclosed that DUI no longer issues debit cards, but instead uses direct deposit and checks when reissuance of a payment is required. With this change, DUI also established certain new policies for reissuing a benefit payment. However, those policies do not include a requirement that reissuance of a payment be subject to independent review and approval.

Our review also disclosed that DUI is still in the process of resolving the return of unspent funds remaining on debit cards with the applicable bank.