

STATE OF NORTH CAROLINA

OFFICE OF THE STATE AUDITOR
BETH A. WOOD, CPA

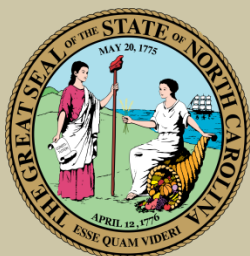


IMPROPER UNEMPLOYMENT BENEFIT PAYMENTS

DEPARTMENT OF COMMERCE

DIVISION OF EMPLOYMENT SECURITY

PERFORMANCE AUDIT
SEPTEMBER 2022



NC  **OSA**
The Taxpayers' Watchdog

EXECUTIVE SUMMARY

OBJECTIVE

The objective of this audit was to determine whether the Department of Commerce, Division of Employment Security (DES) limited improper payments to less than 10% of paid claims as required by the United States Department of Labor (U.S. DOL). If not, identify the impact and causes of improper payments.

BACKGROUND

The North Carolina Unemployment Insurance (UI) program is a joint federal-state program, funded by **employer-paid** unemployment taxes, that provides temporary financial assistance to unemployed workers who **lost their jobs through no fault of their own** and are **able, available, and actively seeking work**.

Federal law¹ requires federal agencies to report an annual improper payment rate² below 10%. As the federal administering agency of the UI program, the U.S. DOL established a performance measure for state UI programs to meet the 10% requirement. State UI programs must limit **improper payments** of UI benefits (payments to ineligible claimants or payments in an incorrect amount) to less than 10% of paid claims. States are required to report their improper payment rate to the U.S. DOL quarterly.

The state is also required to report the **causes of improper payments**, and the planned or actual actions taken to address the causes. The U.S. DOL, in collaboration with the UI Integrity Center,³ review the reported causes of improper payments and develop strategies, recommendations, and **corrective action plans for the state to implement** to reduce improper payments.

The North Carolina Department of Commerce (Department), Division of Employment Security (DES) is responsible for administering the state's UI program in accordance with federal and state law, including limiting improper UI program benefit payments to less than 10% of paid claims.

KEY FINDINGS

DES's reported improper UI payment rate averaged 18% during the period of April 1, 2016, through March 31, 2021, exceeding the 10% federal improper payment rate.

¹ 31 U.S.C. § 3351(2)(F).

² Includes UI benefits overpaid plus UI benefits underpaid divided by the total amount of UI benefits paid. Overpayments, underpayments, and total UI benefits paid are estimated from the Benefit Accuracy Measurement (BAM) program results of paid UI claims **in the state UI program**.

³ The federal UI Integrity Center supports the needs of state UI programs in adopting and implementing strategies to ensure program integrity to bring down the UI improper payment rate and address fraud in UI programs.

EXECUTIVE SUMMARY (CONCLUDED)

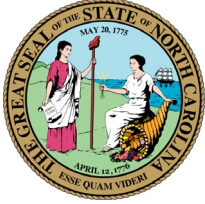
KEY RECOMMENDATIONS

- DES management should implement U.S. DOL recommendations, best practices, and strategies to limit DES's improper payment rate to less than 10% of claims paid.
- DES management should implement U.S. DOL recommendations to reduce improper payments attributable to (1) work search requirement errors, (2) benefit year earnings errors, and (3) separation issue errors.

MATTERS FOR FURTHER CONSIDERATION

- DES management should consider increasing its efforts to recover outstanding UI overpayments and monitor overpayment recovery effectiveness.
- DES management should consider implementing procedures to ensure that UI *ETA 227 Overpayment Detection and Recovery Activities* reports are accurate.

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Office of the State Auditor



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AUDITOR'S TRANSMITTAL

The Honorable Roy Cooper, Governor
Members of the North Carolina General Assembly
Machelle Baker Sanders, Secretary, Department of Commerce
Pryor Gibson, Assistant Secretary, Division of Employment Security

Ladies and Gentlemen:

We are pleased to submit this performance audit report titled *Improper Unemployment Benefit Payments*. The objective of this audit was to determine whether the Department of Commerce, Division of Employment Security (DES) limited improper payments to less than 10% of paid claims as required by the United States Department of Labor. If not, identify the impact and causes of improper payments.

Department of Commerce Secretary, Machelle Baker Sanders reviewed a draft copy of this report. Her written comments are included starting on page 26.

This audit was conducted in accordance with Chapter 147, Article 5A of the *North Carolina General Statutes*.

We appreciate the courtesy and cooperation received from management and the employees of the Department of Commerce and the Division of Employment Security during our audit.

Respectfully submitted,

A handwritten signature in cursive script that reads 'Beth A. Wood'.

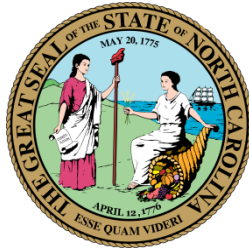
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TABLE OF CONTENTS

	PAGE
BACKGROUND	1
OBJECTIVE, SCOPE, AND METHODOLOGY	4
RESULTS AND CONCLUSIONS	6
FINDING, RECOMMENDATIONS, AND RESPONSE	
\$166 MILLION IN IMPROPER PAYMENTS OVER AND ABOVE FEDERAL IMPROPER PAYMENT LIMIT	7
MATTERS FOR FURTHER CONSIDERATION	
1. DES MANAGEMENT SHOULD CONSIDER INCREASING EFFORTS TO RECOVER UNEMPLOYMENT INSURANCE OVERPAYMENTS	17
2. DES MANAGEMENT SHOULD CONSIDER IMPLEMENTING PROCEDURES TO ENSURE REPORTS ON OVERPAYMENT DETECTION AND RECOVERIES ARE ACCURATE	19
APPENDICES	
APPENDIX A	22
APPENDIX B	24
APPENDIX C	25
RESPONSE FROM DEPARTMENT OF COMMERCE	26
ORDERING INFORMATION	29



BACKGROUND

The North Carolina Unemployment Insurance (UI) program is a joint federal-state program, funded by **employer-paid** unemployment taxes, that provides temporary financial assistance to unemployed workers who **lost their jobs through no fault of their own** and are **able, available, and actively seeking work**.

Broad federal guidelines govern UI programs. Each state administers its own UI program in accordance with a state unemployment compensation law⁴ that includes methods of administration of the state's unemployment compensation law including the payment of unemployment benefits to **eligible claimants**.

Federal law⁵ requires federal agencies to report an annual improper payment rate⁶ below 10%. As the federal administering agency of the UI program, the United States Department of Labor (U.S. DOL) established a performance measure for state UI programs to meet the 10% requirement. State UI programs must limit **improper payments** of UI benefits (payments to ineligible claimants or payments in an incorrect amount) to less than 10% of paid claims. States are required to report their improper payment rate to the U.S. DOL quarterly.

The annual improper payment rate is an estimate based on benefits paid from only the state's UI program. It does not include benefits paid from other UI programs administered by the state, such as the federal pandemic unemployment programs.⁷ The annual improper payment rate is calculated using the results of Benefit Accuracy Measurement (BAM) program samples (random audits). The BAM program determines the accuracy of paid and denied claims by sampling weekly payments and denied claims in the state UI program and uses the sample data to make inferences concerning the entire population of claims.

The state is also required to report the **causes of improper payments**. The U.S. DOL, in collaboration with the UI Integrity Center,⁸ reviews the reported causes of improper payments and develops strategies, recommendations, and **corrective action plans for the state to implement** to reduce improper payments.

North Carolina's UI program is currently designated as "**High-Rate/High Impact**" by the U.S. DOL due to its high improper payment rates. As a "High-Rate/High Impact" state, North Carolina's UI program receives additional targeted assistance and strategies to implement from the UI Integrity Center in an effort to reduce improper payments.

The North Carolina Department of Commerce (Department), Division of Employment Security (DES) is responsible for administering the state's UI program in accordance with federal and state law, including limiting improper UI program benefit payments to less than 10% of paid claims.

⁴ Chapter 96 of the North Carolina General Statutes.

⁵ 31 U.S.C. § 3351(2)(F).

⁶ Includes UI benefits overpaid plus UI benefits underpaid divided by the total amount of UI benefits paid. Overpayments, underpayments, and total UI benefits paid are estimated from the Benefit Accuracy Measurement (BAM) program results of paid UI claims **in the state UI program**.

⁷ In response to the COVID-19 pandemic, the federal government took several actions that provided additional UI benefits to supplement North Carolina's existing UI program. The additional UI benefits were funded entirely by the federal government.

⁸ The federal UI Integrity Center supports the needs of state UI programs in adopting and implementing strategies to ensure program integrity to bring down the UI improper payment rate and address fraud in UI programs.

The UI Claim Process

Claimants can file unemployment benefit claims in North Carolina online or by phone.

All claims are sent through DES's claims processing system, Southeast Consortium Unemployment Benefits Integration (SCUBI). SCUBI is designed with system edits to identify any possible issues⁹ on initial claims that could affect eligibility.

If no eligibility issues are identified, SCUBI automatically processes the claim to be paid. If eligibility issues are identified, DES staff manually review the claim and may request additional information from the claimant to determine whether the claim meets eligibility requirements (see UI Claims to Payment Process Flowchart in Appendix B for more detail).

DES paid approximately \$2.2 billion¹⁰ in UI benefits in its **state UI program** from April 1, 2016, through March 31, 2021.

Key terms discussed in this report include:

Improper Payment - Any payment that should not have been made or that was made in an incorrect amount under statutory, contractual, administrative, or other legally applicable requirements; and includes any payment to an ineligible recipient. Improper payments include both over and under payments.

Improper Payment Rate – UI benefits overpaid plus UI benefits underpaid divided by the total amount of UI benefits paid. Overpayments, underpayments, and total UI benefits paid are estimated from the BAM survey results of paid UI claims in the **state UI program**.

Overpayments – Unemployment benefits received by claimants that they were not eligible to receive.

Benefit Accuracy Measurement (BAM) - Designed to determine the accuracy of paid and denied claims by sampling weekly payments and denied claims in **only the state UI program**. The BAM sample data is used to make inferences concerning the entire population of claims to estimate DES's improper payments and improper payment rate.

The U.S. DOL developed the BAM program that is carried out by DES, including establishing sample sizes and selecting the items for testing.¹¹ The BAM samples are randomly selected from the populations of state UI program payments and determinations denying eligibility issued by the state each week. DES staff audits up to 520 paid cases per year (10 per week) to verify the accuracy of each paid claim determination in its entirety. DES staff also review up to 468 denied claims per year (9 per week) to verify the accuracy of denials. The results of these audits are reported to the U.S. DOL.

⁹ Examples of eligibility issues include (1) insufficient wage or employment history, (2) reason for separation (claimant quit vs. being laid off), and (3) inability to attain employment due to a temporary disability.

¹⁰ According to U.S. DOL data. **Does not include** UI benefits paid from other programs such as federal pandemic unemployment programs.

¹¹ The U.S. DOL BAM program requires DES to audit at least 480 paid cases annually. DES has elected to perform audits of 520 cases annually so that there are an equal number of cases selected each week (10 cases per week for 52 weeks). Additionally, the U.S. DOL BAM program requires DES to audit at least 450 denials annually. DES has elected to perform audits of 468 denials annually so that there are an equal number of denials selected each week (9 cases per week for 52 weeks). This audit did not examine the sampling methodology used by the U.S. DOL or the audit results of the audits performed by DES.

Systems discussed in this report include:

Southeast Consortium Unemployment Benefits Initiative (SCUBI) - DES's unemployment insurance claims processing system. Implemented in September 2018, SCUBI resulted from a three-state consortium made up of North Carolina, South Carolina and Georgia working to modernize the states' aging unemployment benefit systems in an effort to increase the effectiveness and efficiency of unemployment claims processing. SCUBI provides a single web-based system configured to meet the needs of each of the participating states.

National Directory of New Hires (NDNH) - A national database of wage and employment information used to identify individuals who may have returned to work but continue to file for unemployment insurance benefits.

State Directory of New Hires (SDNH) - The state's repository of employment, unemployment insurance, and quarterly wage information. Used by DES to identify claimants who have recently been hired while filing for unemployment benefits.

Responsible parties discussed in this report include:

*North Carolina Department of Commerce (Department)*¹² – The Department's mission is to improve the economic well-being and quality of life for all North Carolinians. To do that, the Department works closely with local, regional, national, and international organizations to propel economic, community, and workforce development for the state.

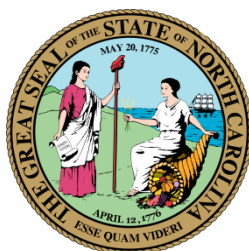
*Division of Employment Security (DES)*¹³ - DES is responsible for the administration of the unemployment insurance (UI) program in the state of North Carolina. DES is overseen by the Department.

*United States Department of Labor, Employment and Training Administration (ETA)*¹⁴ – ETA is a division of the United States Department of Labor that administers federal government job training and worker dislocation programs, federal grants to states for public employment service programs, and unemployment insurance benefits.

¹² <https://www.nccommerce.com/about-us>.

¹³ <https://www.nccommerce.com/about-us/divisions-programs/employment-security-division>.

¹⁴ <https://www.dol.gov/agencies/eta/about>.



OBJECTIVE, SCOPE, AND METHODOLOGY

The objective of this audit was to determine whether the Department of Commerce, Division of Employment Security (DES) limited improper payments to less than 10% of paid claims as required by the United States Department of Labor (U.S. DOL). If not, identify the impact and causes of improper payments.

The audit scope **included** DES's reported improper payments for the period April 1, 2016, through March 31, 2021. The audit scope **did not include** determining whether DES's improper payment Benefit Accuracy Measurement (BAM) audit results were accurate.¹⁵

DES's reported improper payments are an estimate based on benefits paid from only the state's UI program. It does not include benefits paid from other UI programs administered by the state, such as the federal pandemic unemployment programs.

To achieve the audit objectives, auditors:

- Reviewed state and federal laws relevant to unemployment insurance and improper payments.
- Reviewed performance measures instituted by the U.S. DOL, Employment and Training Administration (ETA) for improper payment requirements.
- Interviewed DES personnel.
- Reviewed DES policies and procedures for processing unemployment insurance (UI) claims, conducting BAM audits to identify improper payments, and for identifying the causes of improper payments.
- Reviewed DES BAM reports, corrective action plans, and strategic plans.
- Reviewed U.S. DOL publications that included strategies, recommendations, and corrective action plans for DES to implement to reduce improper payments.

To determine whether DES limited improper payments to less than 10% of paid claims as required by the U.S. DOL, auditors obtained DES improper payment data from U.S. DOL reports and compared the improper payment rates to the federal improper payment limit.

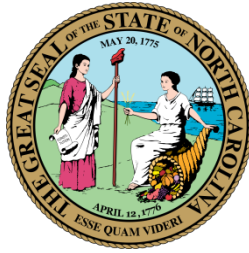
Because of the test nature and other inherent limitations of an audit, together with limitations of any system of internal and management controls, this audit would not necessarily disclose all performance weaknesses or lack of compliance.

As a basis for evaluating internal control, auditors applied the internal control guidance contained in professional auditing standards. However, our audit does not provide a basis for rendering an opinion on internal control, and consequently, we have not issued such an opinion. See Appendix C for internal control components and underlying principles that were significant to our audit objective.

¹⁵ The U.S. DOL developed the BAM program that is carried out by DES, including establishing sample sizes and selecting the items for testing. The BAM samples are randomly selected from the populations of **only state UI program** payments and determinations denying eligibility issued by the state each week. DES staff audits up to 520 paid cases per year (10 per week) to verify the accuracy of each paid claim determination in its entirety. DES staff also review up to 468 denied claims per year (9 per week) to verify the accuracy of denials. The results of these audits are reported to the U.S. DOL. The U.S. DOL uses the sample data to make inferences concerning the entire population of claims.

OBJECTIVE, SCOPE, AND METHODOLOGY

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

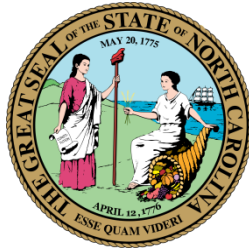


RESULTS AND CONCLUSIONS

The Department of Commerce, Division of Employment Security (DES) reported improper unemployment insurance (UI) payment rate averaged 18% during the period of April 1, 2016, through March 31, 2021, exceeding the 10% federal improper payment rate allowed by the United States Department of Labor (U.S. DOL).

As a result, DES paid approximately \$166 million in improper payments over and above the federal improper payment limit during the same time period.

DES exceeded the improper payment limit because it did not implement certain U.S. DOL recommendations to reduce improper payments that resulted from (1) work search requirements, (2) benefit year earnings, and (3) separation information issues.



FINDING, RECOMMENDATIONS, AND RESPONSE

\$166 Million in Improper Payments Over and Above Federal Improper Payment Limit

The Department of Commerce, Division of Employment Security (DES) reported improper unemployment insurance (UI) payment rate¹⁶ averaged 18% during the period of April 1, 2016, through March 31, 2021, exceeding the 10% improper payment rate allowed by the United States Department of Labor (U.S. DOL). As a result, DES paid approximately \$166 million in improper payments over and above the federal improper payment limit. Consequently, these public funds were not used for the intended purpose of providing financial assistance to unemployed North Carolinians in times of need.

DES exceeded the improper payment limit because it did not implement certain U.S. DOL recommendations to reduce improper payments that resulted from (1) work search requirements, (2) benefit year earnings, and (3) separation information issues.

The U.S. DOL required DES to limit improper payments to less than 10% of paid claims.

DES Improper Payment Rate Exceeded Federal Limit

The DES reported improper payment rate¹⁷ averaged approximately 18% during the period of April 1, 2016, through March 31, 2021, which exceeded the federal 10% improper payment limit. See Table 1 below.

**Table 1 – Improper Payments & Rates
(April 1, 2016 – March 31, 2021)**

Fiscal Year ¹⁸	State UI Claim Amounts	Estimated Overpayment Amounts	Estimated Underpayment Amounts	Total Estimated Improper Payment Amounts ¹⁹ (Overpayments + Underpayments)	Improper Payment Rate
2021 ²⁰	\$ 1,430,884,971	\$ 211,747,206	\$ 14,555,861	\$ 226,303,067	15.8%
2020	210,970,115	31,521,299	826,296	32,347,595	15.3%
2019	124,099,670	22,619,175	534,907	23,154,082	18.7%
2018	190,921,838	48,284,926	415,518	48,700,444	25.5%
2017	221,363,445	52,307,604	968,901	53,276,505	24.1%
Total:	\$ 2,178,240,039	\$ 366,480,210	\$ 17,301,483	\$ 383,781,693	17.6%

Source: U.S. Department of Labor data.

¹⁶ The annual improper payment rate is an estimate based on benefits paid from only the state’s UI program. It does not include benefits paid from other UI programs administered by the state, such as the federal pandemic unemployment programs.

¹⁷ This rate includes UI benefits overpaid plus UI benefits underpaid divided by the total amount of UI benefits paid. Overpayments, underpayments, and total UI benefits paid are estimated from the Benefit Accuracy Measurement (BAM) program results of paid UI claims **only in the state UI**.

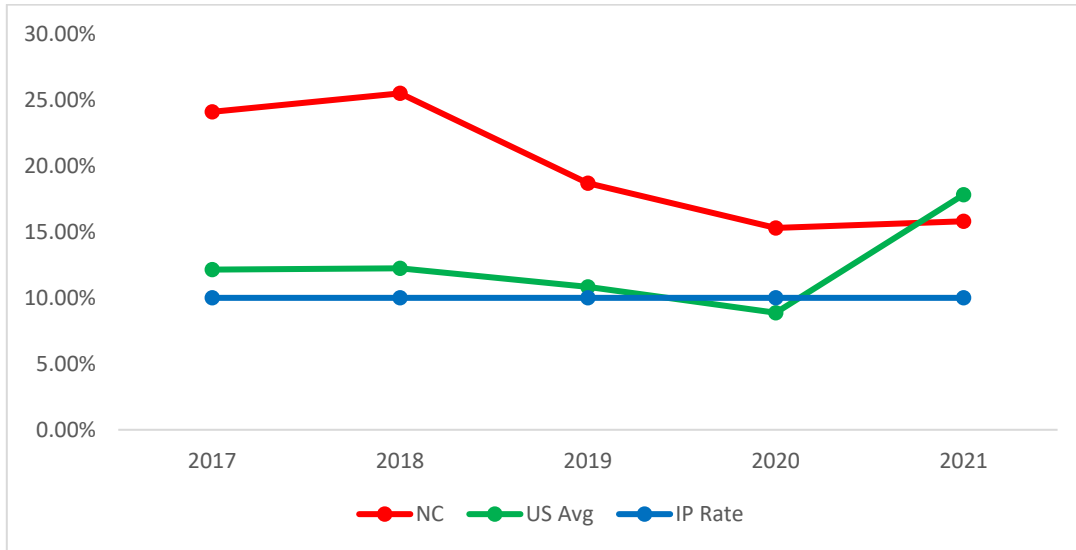
¹⁸ The Unemployment Insurance fiscal year runs from April 1 through March 31.

¹⁹ Estimated total improper payments derived from actual improper payments that were identified as part of the BAM program. The BAM program is designed to determine the accuracy of paid and denied claims by sampling weekly payments and denied claims and using the sample data to make inferences concerning the entire population of claims.

²⁰ BAM sampling was suspended from March 29, 2020, through June 27, 2020 (1st quarter in the fiscal year), due to COVID-19 pandemic. As a result, improper payments were calculated for fiscal year 2021 using the data available from June 28, 2020, through March 31, 2021.

Additionally, the North Carolina unemployment improper payment rate has exceeded the national average for four out of the last five years. See Graph 1 below.

**Graph 1 – Improper Payment Rate NC vs US Average
April 1, 2016 – March 31, 2021**



Source: U.S. Department of Labor data.

Resulted in DES Making \$166 Million in Improper Payments Over and Above the Federal Improper Payment Limit

As a result, DES made approximately \$166 million in improper payments²¹ over and above the federal improper payment limit during the period April 1, 2016, through March 31, 2021. See Table 2 below.

**Table 2 –Excessive Improper Payments
(April 1, 2016 – March 31, 2021)**

Fiscal Year ²²	State UI Claim Amounts	Estimated Improper Payment Amounts	Estimated Improper Payment Amounts if Limited to 10% of Claims	Difference = Excessive Improper Payments
2021	\$ 1,430,884,971	\$ 226,303,067	\$ 143,088,497	\$ 83,214,570
2020	210,970,115	32,347,595	21,097,012	11,250,583
2019	124,099,670	23,154,082	12,409,967	10,744,115
2018	190,921,838	48,700,444	19,092,184	29,608,260
2017	221,363,445	53,276,505	22,136,345	31,140,160
Total:	\$ 2,178,240,039	\$ 383,781,693	\$ 217,824,005	\$ 165,957,688

Source: U.S. Department of Labor data and auditor analysis.

²¹ Estimate based on benefits paid from only the state’s UI program. It does not include benefits paid from other UI programs administered by the state, such as the federal pandemic unemployment programs.

²² The Unemployment Insurance fiscal year runs from April 1 through March 31.

Improper payments include any payments that should not have been made, were made in an incorrect amount, and includes any payment to an ineligible recipient.

Consequently, these public funds were paid or received in error. These public funds paid in error will ultimately not be used for the intended purpose of providing financial assistance to unemployed North Carolinians in times of need.

Caused by Failure to Implement Recommendations from the U.S. Department of Labor

DES exceeded the improper payment limit because it failed to implement certain U.S. DOL recommendations to reduce improper payments. While improper payments include both overpayments and underpayments, **overpayments** accounted for approximately **95%** of all improper payments during the period of April 1, 2016, through March 31, 2021. See Table 3 below.

**Table 3 – UI Benefit Overpayments %
(April 1, 2016 – March 31, 2021)**

Fiscal Year ²³	Estimated Overpayments	Estimated Underpayments	Total Estimated Improper Payments (Overpayments + Underpayments)	Overpayment Rate
2021 ²⁴	\$211,747,206	\$14,555,861	\$226,303,067	93.6%
2020	31,521,299	826,296	32,347,595	97.4%
2019	22,619,175	534,907	23,154,082	97.7%
2018	48,284,926	415,518	48,700,444	99.1%
2017	52,307,604	968,901	53,276,505	98.2%
Total:	\$366,480,210	\$17,301,483	\$383,781,693	95.5%

Source: U.S. Department of Labor data and auditor analysis.

The state is also required to report the **causes of improper payments**. The U.S. DOL, in collaboration with the UI Integrity Center,²⁵ reviews the reported causes of improper payments and develops strategies, recommendations, and **corrective action plans for the state to implement** to reduce improper payments.

North Carolina’s UI program is currently designated as “**High-Rate/High Impact**” by the U.S. DOL due to its high improper payment rates. As a “High-Rate/High Impact” state, North Carolina’s UI program receives additional targeted assistance and strategies to implement from the UI Integrity Center in an effort to reduce improper payments.

²³ The Unemployment Insurance fiscal year runs from April 1 through March 31.

²⁴ BAM sampling was suspended from March 29, 2020, through June 27, 2020 (1st quarter in the fiscal year) due to COVID-19 pandemic. As a result, improper payments were calculated for UI program fiscal year 2021 using the data available from June 28, 2020, through March 31, 2021.

²⁵ The federal UI Integrity Center supports the needs of state UI programs in adopting and implementing strategies to ensure program integrity to bring down the UI improper payment rate and address fraud in UI programs.

While DES has implemented some of the U.S. DOL’s recommendations received since 2016, DES did not implement certain U.S. DOL recommendations to reduce improper payments that resulted from **(1) work search requirements, (2) benefit year earnings, and (3) separation information issues**. (Each error type is described in detail below. Also see Appendix A for more information). These three error types accounted for **94% of all DES overpayments** over the last five years. See Table 4 below.

**Table 4 – Primary Causes of Overpayments
(April 1, 2016 – March 31, 2021)**

Overpayment Error Type	Overpayments	Overpayments Due to Primary 3 Causes
Work Search Requirements²⁶	\$ 91,371,596	\$343,895,639 94%
Benefit Year Earnings	140,983,931	
Separation Information Issues	111,540,112	
Other²⁷	22,584,571	
Total Overpayments	\$ 366,480,210	

Source: U.S. Department of Labor data and auditor analysis.

Work Search Requirements

Improper payments due to work search requirements occur when claimants receive unemployment payments **that they were not eligible to receive because they failed to provide acceptable evidence of their work search in accordance with state law.**²⁸ In North Carolina, claimants are required to be actively seeking work. Claimants are required to make three work search contacts each week, keep a detailed record of their work search activities in order to receive unemployment benefits, and provide the record to DES upon request.

Approximately \$91 million²⁹ (25%) of DES’s \$366 million in overpayments were attributable to work search requirements during the last five years. See Table 5 below.

**Table 5 – Work Search Requirements
Overpayments
(April 1, 2016 – March 31, 2021)**

Fiscal Year	Estimated Overpayments	Overpayments Attributable to Work Search Requirements	% Overpayments Attributable to Work Search Requirements
2021	\$ 211,747,206	\$ 0	0% ³⁰
2020	31,521,299	14,846,831	47.1%
2019	22,619,175	12,612,978	55.8%
2018	48,284,926	27,951,702	57.9%
2017	52,307,604	35,960,085	68.7%
Total:	\$ 366,480,210	\$ 91,371,596	24.9%

Source: U.S. Department of Labor data and auditor analysis.

²⁶ NC Executive Order 118 waived the work search requirement during FY 2021 due to the COVID-19 pandemic.
²⁷ Other Eligibility, Base Period Wage Issue, Able + Available, Sev./Vac./SSI/Pension, ES Registration, All Other Causes, and Dependents Allowance.
²⁸ Pursuant to N.C.G.S. § 96-14.9.
²⁹ According to U.S. DOL data.
³⁰ NC Executive Order 118 waived the work search requirement during FY 2021 due to the COVID-19 pandemic.

DES did not implement certain U.S. DOL recommendations to reduce improper payments resulting from work search requirements. Specifically, DES did not:

- **Require Work Search Reporting with Weekly UI Certification.**

The U.S. DOL UI Integrity Strategic Plan³¹ stated that increasing the frequency of work search reporting and **capturing the activities³² as part of the weekly claim certification** may contribute to an increase in work search compliance, resulting in a **decrease of work search errors**.

However, DES did not implement a requirement for work search reporting within the weekly certification process and did not provide claimants with an optional repository to record work search activities electronically.

Instead, DES only required claimants to keep a detailed record of their work search activities and maintain the records for five years in the event they are audited.³³

When asked why DES had not implemented a work search repository as part of the weekly certification process, the Chief Deputy of Programs stated that the while the U.S. DOL “has been **recommending a work search repository for years...DES is concerned with the feasibility and costs** associated with implementing and maintaining the electronic repository and reporting in weekly certifications...” *[Emphasis Added]*

However, the Chief of UI Benefits stated an effort to determine the feasibility of an electronic repository did not occur due to the volume of UI claims during the COVID-19 pandemic. Though, as stated above, the U.S. DOL has been recommending a work search repository for years and as far back as June 2019.³⁴ Nearly a year before the onset of the COVID-19 pandemic.

- **Monitor Requirement for Claimant Assessment Interviews.**

The U.S. DOL³⁵ stated that conducting Reemployment Service and Eligibility Assessment (RESEA) interviews³⁶ with claimants would result in a **reduction in UI duration through improved employment outcomes** and a **reduction of improper payments** due to work search requirement errors.

³¹ U.S. Department of Labor UI Integrity Strategic Plan Fiscal Year 2020.

³² Refers to the work search activities UI claimants are required to complete to be eligible to receive UI benefits. For example, required activities include contacting at least three different employers each week, participating in approved and verified reemployment activities, etc.

³³ DES conducts BAM program audits annually in which a sample of claims paid and denied will be reviewed for accuracy, including whether work search activities were completed in accordance with the law. In addition, DES reviews the work search activities of claimants during EAI and RESEA interviews (explained in “Monitor Requirement for Claimant Assessment Interviews” below).

³⁴ Unemployment Insurance Program Letter (UIPL) 15-19.

³⁵ Unemployment Insurance Program Letter (UIPL) 13-21.

³⁶ Every RESEA session is required to include a one-on-one assessment of the claimants’ continuing UI eligibility. This assessment typically includes confirming employment status and a review of the claimant’s work search activities. The assessment must also provide claimants with support in the development of an individual reemployment plan and other resources to support the claimant’s return to work.

Similarly, North Carolina rules³⁷ require DES to conduct RESEA interviews or Employability Assessment Interviews (EAI) with claimants to provide financial and job-seeking assistance while they seek to become reemployed.³⁸ In the interviews, workforce specialists should review claimants’ work search activities and ensure that required work search has been completed by the claimant.³⁹

In response, DES entered into an agreement with the Division of Workforce Solutions (DWS) to schedule and conduct these assessments.

However, DES did not ensure that DWS was conducting RESEA or EAI interviews with claimants. Auditors reviewed readily available DWS RESEA-EAI Activity Reports and noted that **only 53% of claimants** had assessments **conducted** for either a RESEA or EAI assessment from January 1, 2019, through March 31, 2020.⁴⁰

When asked about the above information, the DES Chief of UI Benefits stated that she had not been aware there was a report from DWS or otherwise available (from SCUBI⁴¹) to ensure that all claimants received the required assessments.

Benefit Year Earnings

Improper payments due to benefit year earnings occur when claimants receive unemployment payments **that they were not eligible to receive because they failed to report earnings after returning to work or inaccurately reported earnings.**

Approximately \$141 million⁴² (39%) of DES’s \$366 million in overpayments were attributable to benefit year earnings errors⁴³ during the last five years. See Table 6 below.

Table 6 – Benefit Year Earnings Overpayments (April 1, 2016 – March 31, 2021)

Fiscal Year	Estimated Overpayments	Overpayments Attributable to Benefit Year Earnings	% Overpayments Attributable to Benefit Year Earnings
2021	\$ 211,747,206	\$ 107,686,985	50.9%
2020	31,521,299	8,610,155	27.3%
2019	22,619,175	5,148,843	22.8%
2018	48,284,926	11,918,997	24.7%
2017	52,307,604	7,618,951	14.6%
Total:	\$ 366,480,210	\$ 140,983,931	38.5%

Source: U.S. Department of Labor data and auditor analysis

³⁷ 04 NC Admin. Code 24b.0301.

³⁸ Not all claimants are required to receive RESEA interviews. Claimants who are most likely to exhaust UI benefits and other factors are selected to participate in RESEA interviews. Claimants who receive a RESEA are not required to attend EAI, as they are considered duplicative.

³⁹ Claimants who receive a RESEA are not required to attend an EAI, as they are considered duplicative.

⁴⁰ Calculated based on the populations of claimants provided to DWS, but does not necessarily include all claimants who received a first unemployment insurance payment.

⁴¹ DES’s unemployment insurance claims processing system.

⁴² According to U.S. DOL data.

⁴³ U.S. DOL and DES define errors as unintentional errors and fraud.

DES did not implement certain U.S. DOL recommendations to reduce improper payments resulting from benefit year earnings. Specifically, DES did not:

- **Cross-Match Claimants with State Directories of New Hires (SDNH).⁴⁴**

The U.S. DOL⁴⁵ declared that states should cross-match claimant data with the State Directories of New Hires (SDNH) and National Directories of New Hires (NDNH) to identify claimants who have returned to work and may no longer be eligible to receive unemployment benefits. It is recommended that whenever the NDNH or the SDNH reveals a match, DES flag a claimant's next continued claim and require the claimant to contact a state claims representative before filing the continued claim.

However, DES did not cross-match claimant data with the SDNH until June 2021. While DES has cross-matched claimant data with the NDNH since 2012, using the SDNH would have allowed DES to identify claimants who have returned to work more quickly because DES can cross-match with the SDNH daily. By contrast, DES can only cross-match with the NDNH weekly.⁴⁶

According to DES's Improper Payment Reduction Plan,⁴⁷ DES was supposed to implement the SDNH cross-match process in August 2019. However, according to the Chief of Benefits Integrity, "implementation was delayed as a result of the COVID-19 pandemic." However, the COVID-19 pandemic did not begin in the United States until March 2020, **seven months after** the SDNH cross-match process was supposed to be implemented.

- **Implement Wage Calculator with Weekly UI Certification.**

The U.S. DOL designed and then recommended states implement a wage calculator **as part of the weekly claim certification** specifically to **reduce benefit year earnings errors**.

The wage calculator requires claimants to input wage rate and hours worked per specific day.⁴⁸ This effectively automates the process and greatly reduces the risk of benefit year earnings errors submitted by the claimant such as miscalculated earnings, reported net versus gross earnings, or reported earnings for the wrong benefit week⁴⁹ or days in a week.

⁴⁴ SDNH is the state's repository of employment, unemployment insurance, and quarterly wage information. Used by DES to identify claimants who have recently been hired while filing for unemployment benefits.

⁴⁵ UI Directors Guide (2020) and Unemployment Insurance Program Letter (UIPL) 19-11 published in June 2011.

⁴⁶ NDNH is a repository of employment, unemployment insurance, and quarterly wage information for states. States have 3 business days to forward data to the NDNH after having 5 business days to enter new hire data into the SDNH.

⁴⁷ Developed in collaboration with the UI Integrity Center. The Improper Payment Reduction Plan is the action items agreed upon between DES and the National Association of State Workforce Agencies' State Intensive Services Program in 2019 to reduce the state's improper payment rate.

⁴⁸ For claimants who work while receiving unemployment benefits. Claimants must report the money they earn. Claimants can earn up to 20% of their weekly benefit amount without penalty. Earnings over that amount are deducted from their weekly benefits.

⁴⁹ Claimants erroneously report wages when received versus earned or for the wrong 'week' such as Monday to Sunday versus Sunday to Saturday.

However, DES did not implement the wage calculator as part of the weekly certification process until June 2021.

According to DES’s Improper Payment Reduction Plan,⁵⁰ DES was supposed to implement the wage calculator by August 2020. However, according to the Chief of UI Benefits, “implementation was delayed as a result of the COVID-19 pandemic.”

Separation Information Issues

Improper payments caused by inaccurate separation information occur **when claimants receive unemployment payments they were not eligible to receive because they voluntarily quit employment or were discharged for cause**. This improper payment error most often results when claimants provide an incorrect last employer or an incorrect reason for separation.

Approximately \$112 million⁵¹ (30%) of DES’s \$366 million overpayments were attributable to inaccurate separation information during the last five years. See Table 7 below.

Table 7 – Separation Information Issues Overpayments (April 1, 2016 – March 31, 2021)

Fiscal Year	Estimated Overpayments	Overpayments Attributable to Separation Information Issues	% Overpayments Attributable to Separation Information Issues
2021	\$ 211,747,206	\$ 91,361,256	43.2%
2020	31,521,299	6,491,923	20.6%
2019	22,619,175	4,247,864	18.8%
2018	48,284,926	5,412,248	11.2%
2017	52,307,604	4,026,821	7.7%
Total:	\$ 366,480,210	\$ 111,540,112	30.4%

Source: U.S. Department of Labor data and auditor analysis

DES did not implement a U.S. DOL recommendation to reduce overpayments resulting from separation information issues. Specifically, DES did not:

Implement a Standardized Process for Making Separation Determinations.

The U.S. DOL⁵² states that management is responsible for creating policies, procedures, and internal controls that effectively protect the integrity and security of UI program staff, program operations and systems, UI funds, UI data, and other state assets.

However, DES does not have standardized procedures or policies for making separation determinations when the employers’ and claimants’ reason for separation conflict. Instead, DES management allows DES staff to make decisions on separation cases **based on their professional judgment**.

⁵⁰ Developed in collaboration with the UI Integrity Center. The Improper Payment Reduction Plan is the action items agreed upon between DES and the National Association of State Workforce Agency’s State Intensive Services Program in 2019 to reduce the state’s improper payment rate.

⁵¹ According to U.S. DOL data.

⁵² Unemployment Insurance Directors Guide, March 2020.

For example, assuming that a claimant is otherwise eligible to receive unemployment benefits, a claimant would be eligible to receive unemployment if they were laid-off from their job. A claimant would not be eligible to receive unemployment if they quit their job. When an employer and a claimant provide conflicting information as to the reason for the employee's separation (quit versus laid-off), and there is insufficient evidence to support either one, DES staff **are allowed** to decide in favor of the party they "believe."

This can lead to inconsistencies across the DES unemployment claims process and ultimately increase overpayments due to separation information errors. When determining improper payments during the Benefit Accuracy Measurement (BAM) process, DES's Quality Control Manager stated that BAM staff decide **in favor of the employer** when an employer and a claimant provide conflicting information as to the reason for the employee's separation.

Further, allowing DES staff to rule in favor of the claimant against conflicting information from the employer for separation determinations may be in direct conflict with state law. North Carolina General Statutes § 96-14.5.(a) states:

When an individual leaves work, the **burden of showing good cause attributable to the employer rests on the individual** and the burden may not be shifted to the employer. *[Emphasis Added]*

U.S. DOL Required DES to Limit Improper Payments to 10% of Paid Claims

Federal law⁵³ requires federal agencies to report an annual improper payment rate below 10%.

As the federal administering agency of the UI program, the U.S. DOL established a performance measure for state UI programs to meet the 10% requirement.

According to the U.S. DOL performance measure, state UI programs must limit **improper payments** of UI benefits to less than 10% of paid claims.

RECOMMENDATIONS

DES management should implement U.S. DOL recommendations, best practices, and strategies to limit DES's improper payment rate to less than 10% of claims paid.

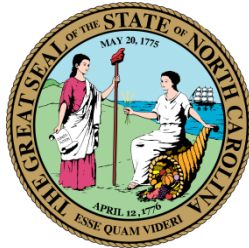
DES management should implement U.S. DOL recommendations to reduce improper payments attributable to **(1) work search requirement errors, (2) benefit year earnings errors, and (3) separation issue errors**. Specifically, DES management should:

- (1) Require work search activities to be reported within the weekly certification process.
- (2) Ensure that DWS is scheduling and conducting RESEA or EAI interviews with claimants.
- (3) Continue to cross-match with the SDNH to identify as quickly as possible when claimants return to work and monitor to ensure it is working as intended.
- (4) Continue requiring claimants to use a wage calculator as part of the weekly claim certification and monitor to ensure it is working as intended.
- (5) Create standardized policies and procedures for making separation determinations when the employers' and claimants' reason for separation conflict.

⁵³ 31 U.S.C. § 3351(2)(F).

AGENCY RESPONSE

See page 26 for the Department's response to this finding.



MATTERS FOR FURTHER CONSIDERATION

During an audit, Office of the State Auditor staff may uncover potential issues that are outside of the audit objectives. Although the issues may not have been part of the planned objectives, the issues need to be presented to those charged with governance and relevant stakeholders. Below are two such issues.

1. DES MANAGEMENT SHOULD CONSIDER INCREASING EFFORTS TO RECOVER UNEMPLOYMENT INSURANCE OVERPAYMENTS

Division of Employment Security (DES) management should consider increasing its efforts to recover outstanding unemployment insurance (UI) overpayments and monitor overpayment recovery effectiveness.

Over \$982 million in **actual** UI overpayments⁵⁴ were identified from April 1, 2020, through March 31, 2022, but DES recovered only \$87 million (9%) during the same time period. After accounting for adjustments,⁵⁵ there were approximately **\$752 million** in unrecovered overpayments (**payments that should not have been made or that were made in the wrong amount**) as of March 31, 2022. See Table 8 below.

**Table 8 – UI Overpayments and Recoveries
April 1, 2020 - March 31, 2022**

UI Benefit Program	Actual Overpayments Identified	Overpayments Recovered	Recovered (%)	Other Adjustments ⁵⁶	Remaining Overpayments Balance
State UI	\$ 146,088,998	\$ 36,013,027	25%	\$ 3,858,929	\$ 106,217,042
Pandemic Unemployment Assistance	167,319,417	4,862,499	3%	96,419	162,360,499
Pandemic Emergency Unemployment Compensation	75,421,029	10,628,712	14%	12,062,281	52,730,036
Mixed Earner Unemployment Compensation	209,730	31,208	15%	55,531	122,991
Federal Pandemic Unemployment Compensation	593,218,561	35,903,817	6%	126,485,609	430,829,135
Total	\$ 982,257,735	\$ 87,439,263	9%	\$142,558,769	\$ 752,259,703

Source: DES ETA 227 reports (April 2020 – March 2022) and auditor analysis.

⁵⁴ **Actual UI overpayments identified in all UI programs administered by DES, including the federal pandemic unemployment programs. As stated in the Background section of this report, the audit's finding covers the annual improper payment rate which is an estimate based on benefits paid from only the state's UI program.**

⁵⁵ Include amounts waived, written-off, receivables removed, and adjustments from redeterminations and/or appeals.

⁵⁶ Ibid.

DES identifies UI overpayments through its Benefits Integrity Unit and the Benefit Accuracy Measurement (BAM) program. The Benefits Integrity Unit identifies the majority of overpayments through principal detection methods (Wage/Earning crossmatches, State Directories of New Hires (SDNH) / National Directories of New Hires (NDNH) crossmatches, fraud investigations) and operational system checks integrated in DES's unemployment insurance claims processing system (SCUBI).

BAM program staff audit samples of weekly UI payments (and denied claims) for accuracy. The errors identified in both Benefits Integrity and the BAM program are **actual, identified** overpayments that are potentially **recoverable**.

However, DES does not have a plan or process to **actively** pursue overpayment recovery from most claimants and **does not monitor** the effectiveness of its recovery efforts.

For example, DES can recover UI overpayments **if** claimants **respond** to monthly overpayment notices sent by DES by paying in cash or setting up a payment plan. However, according to DES, **a majority of overpaid claimants do not respond and set up payment plans to repay funds.**⁵⁷ Additionally, DES does not issue warnings to claimants about overpayment recovery or impose penalties on claimants who do not respond.⁵⁸

If claimants fail to pay or set up a payment arrangement within 180 days, DES may recover overpayments through other means:

- Criminal prosecution and/or civil court action.⁵⁹
- Offsetting UI Benefits.⁶⁰
- Tax Refund Interception.⁶¹
- NC Lottery Winnings Interception.⁶²
- Wage Garnishments.⁶³

According to DES, each of these methods are limited in their ability to recover overpayments. If that is the case, DES management should consider approaching the General Assembly to explore options and alternative methods to increase the ability to recover overpayments.

Further, DES **does not monitor** the effectiveness of its recovery efforts. While DES has information available to know whether current claimants are having their UI benefit payments offset for prior overpayments, DES does not analyze the information to identify and correct potential issues with overpayment recovery.

Additionally, DES does not have available reports detailing the number of claimants and the amount of overpayments recovered for **any of the other recovery methods listed above**.

⁵⁷ DES was not able to produce a report showing the number of claimants on payment plans.

⁵⁸ DES does impose penalties for fraudulent overpayments.

⁵⁹ N.C.G.S. § 96-18.(g)(3)a.

⁶⁰ N.C.G.S. § 96-18.(g)(3)c and N.C.G.S. § 96-18.(g)(3)d.

⁶¹ [DES: Overpayment FAQs \(nc.gov\)](#).

⁶² Ibid.

⁶³ N.C.G.S. § 96-18.1.

DES does not have available reports detailing the number of claimants who received overpayments (1) on payment plans, (2) that had their federal/state taxes or lottery winnings intercepted, or (3) that had their wages garnished. DES also does not have reports detailing the amount of overpayments recovered by recovery method.

Without monitoring its overpayment recovery efforts, DES management is limited in its ability to know whether overpayment recovery methods are successful. DES cannot evaluate its recovery methods and make necessary improvements in a timely manner.

Consequently, there is an increased risk that public funds that were paid or received in error will not be recovered and ultimately used for the intended purpose of providing financial assistance to unemployed North Carolinians in times of need.

2. DES Management Should Consider Implementing Procedures to Ensure Reports on Overpayment Detection and Recoveries are Accurate

Division of Employment Security (DES) management should consider implementing procedures to ensure that unemployment insurance (UI) *ETA 227 Overpayment Detection and Recovery Activities* (ETA 227) reports are accurate.

The ETA 227 report is submitted quarterly to the U.S. Department of Labor, Employment Training Administration (ETA) and includes information on overpayments of unemployment claims under the regular state UI program and under various federal UI programs including:

- Identified overpayments – causes.
- Identified overpayments – methods of detection.
- Recovery and Reconciliations of overpayments.
- Criminal and civil actions involving overpayments obtained fraudulently.
- Aging schedule of outstanding benefit overpayment accounts.

Auditors reviewed the ETA 227 reports⁶⁴ and identified five errors:

- DES incorrectly reported \$0 in overpayments identified using the State Directory of New Hires (SDNH) crossmatch. DES management was unable to provide the amount that should have been reported for this period.

DES implemented the SDNH crossmatch process in June 2021 and DES agreed the report should have reflected the identification of overpayments using SDNH crossmatch for the period July 1, 2021, through March 31, 2022 (3 quarters).

- DES incorrectly reported the aging schedule data from the third quarter 2019 in the fourth quarter 2019 (repeating the entire aging schedule). See Table 9.

⁶⁴ Auditors reviewed quarterly ETA 227 reports spanning January 1, 2017, through March 31, 2022.

Table 9 - Aging Schedule

	2019 Q3	2019 Q4
90 days or less	\$ 1,434,240	\$ 1,434,240
91-180 days	1,234,471	1,234,471
181-270 days	1,561,184	1,561,184
271-360 days	610,538	610,538
361-450 days	1,184,283	1,184,283
> 450 days	3,884,535	3,884,535
Total	\$ 9,909,251	\$ 9,909,251

Source: DES ETA 227 reports and auditor analysis.

DES management was unable to provide the amounts that should have been reported.

- DES incorrectly reported the same totals for beginning and ending outstanding overpayment balances for the fourth quarter 2019. See Table 10 below.

Table 10 - Outstanding Overpayment Balances

	2019 Q3	2019 Q4	2020 Q1
Outstanding at Beginning of Period	\$ 10,136,749	\$ 9,909,251	\$ 9,909,251
Outstanding at End of Period	\$ 9,909,251	\$ 9,909,251	\$ 7,378,174

Source: DES ETA 227 reports and auditor analysis.

DES management was unable to provide the amounts that should have been reported.

- DES incorrectly reported approximately \$16,000 of overpayments caused by identity theft as *nonfraud*.

However, according to DES, all overpayments caused by identify theft should be categorized as *fraud*.

- DES incorrectly reported only the number of cases investigated that resulted in the identification of overpayments rather than all case investigations.

However, the UI Report Handbook No 401⁶⁵ defines Cases Investigated as “The number of cases emanating from a state-initiated overpayment detection process for which an investigation regarding a potential overpayment has been concluded.”

DES management was unable to provide the number of cases that should have been reported.

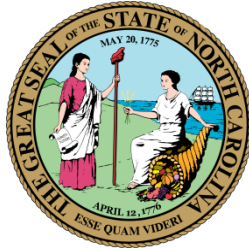
According to the U.S. DOL, the ETA and state agencies **need this information to monitor the integrity** of the benefit payment processes in the UI system.

When the above information was presented to DES management, **they were unaware of the inaccuracies**.

⁶⁵ https://wdr.doleta.gov/directives/attach/ETAH/ETHand401_5th.pdf.

Without accurate information, there is the potential for the **ETA and DES to make erroneous judgments and decisions concerning the performance of the state's delivery of UI benefits**. Additionally, the ETA and DES may not be able to identify and correct the most serious performance issues in overpayment detection and DES's recovery activities. As stated in previous sections of this report:

- DES's improper UI payment rate averaged 18% during the period of April 1, 2016, through March 31, 2021, exceeding the 10% federal improper payment rate.
- DES recovered only 9% of identified overpayments from April 1, 2020, through March 31, 2022.



APPENDICES

Appendix A

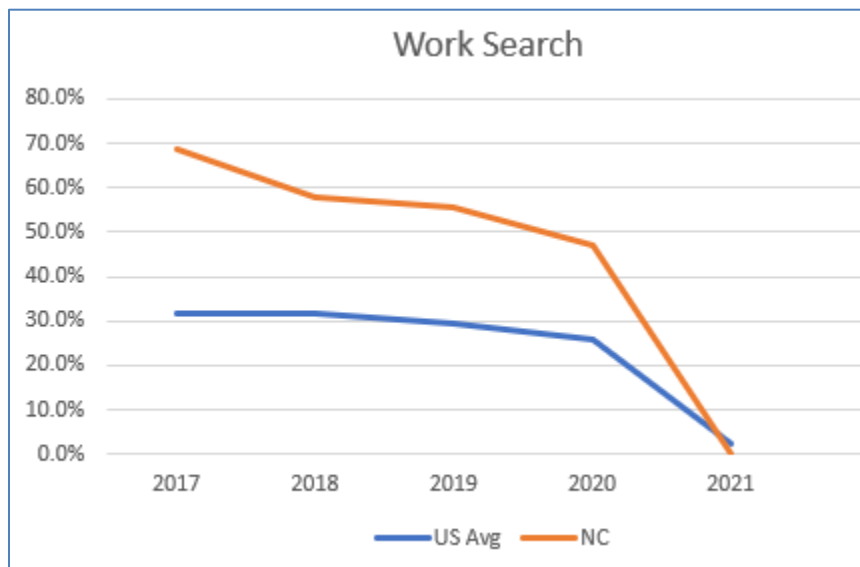
Primary Causes of Unemployment Insurance Overpayments

DES’s three primary causes of UI overpayments were due to errors in **(1) work search requirements, (2) benefit year earnings, and (3) separation information issues**. See Table and Graphs below detailing the extent these error types accounted for North Carolina’s (NC) overall overpayments in relation to the national average.

Summary - 3 Causes		% of Overpayments				
		2021	2020	2019	2018	2017
Work Search	US Average	2.5%	25.7%	29.6%	31.9%	31.7%
	NC	0.0%*	47.1%	55.8%	57.9%	68.8%
Benefit Year Earnings	US Average	34.4%	35.9%	32.8%	31.4%	30.4%
	NC	50.9%	27.3%	22.8%	24.7%	14.6%
Separation Information	US Average	32.9%	18.7%	17.0%	15.8%	16.5%
	NC	43.2%	20.6%	18.8%	11.2%	7.7%

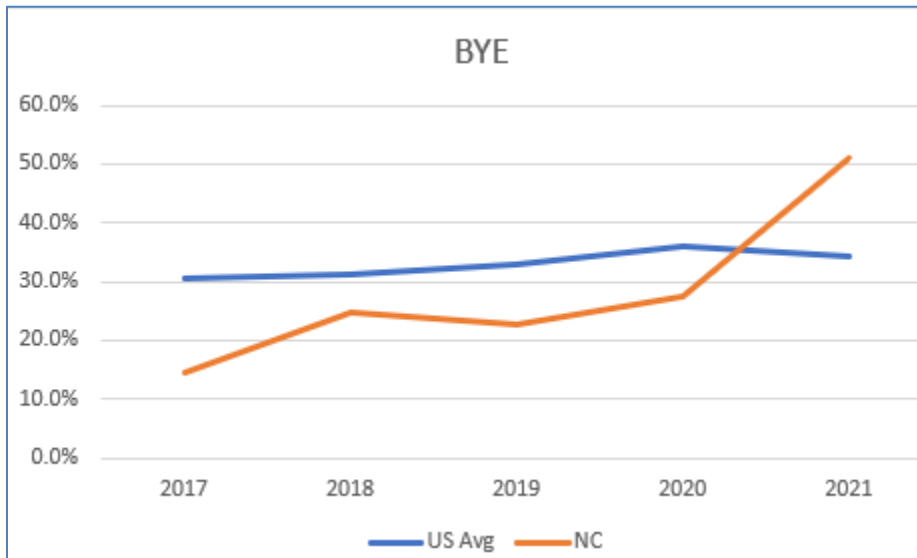
Source: U.S. Department of Labor data and auditor analysis.

Work Search Requirements:

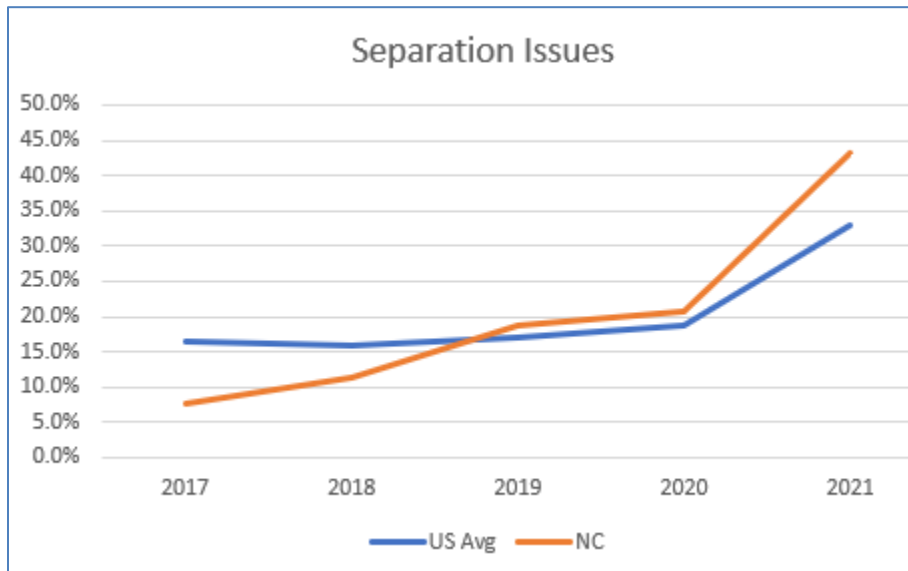


(*) NC Executive Order 118 waived the work search requirement during fiscal year 2021 due to the COVID-19 pandemic.

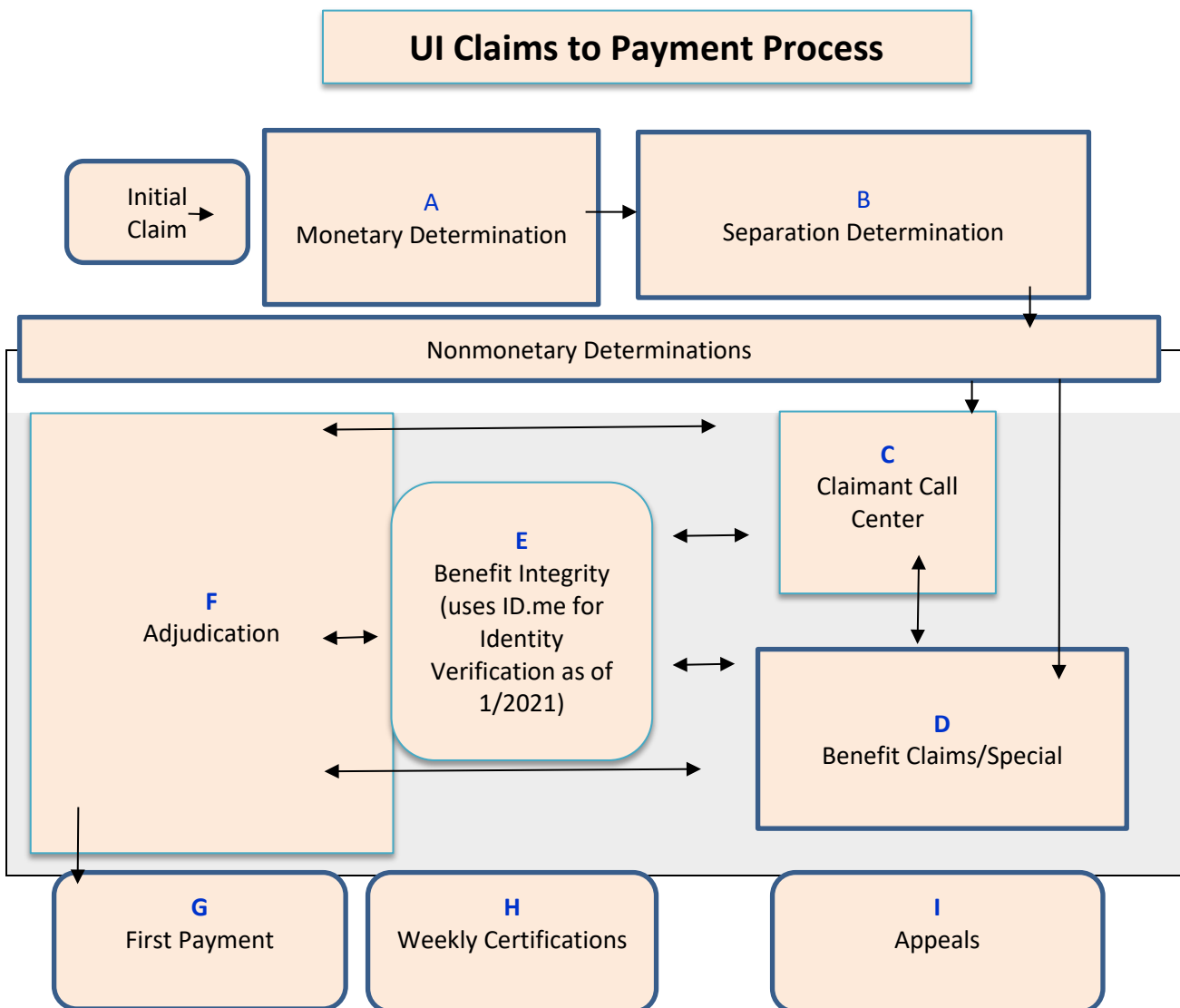
Benefit Year Earnings (BYE):



Separation Information Issues



Appendix B



- A Monetary Determinations:** Evaluation of claimant's base-period wages.
- B Separation Determinations:** Evaluation of employment separation details via request to last bona fide employer.
- C Claimant Call Center:** Collection, and limited evaluation, of eligibility documents.
- D Benefit Claims/Special:** Collection of eligibility documents for special programs and some adjudications.
- E Benefit Integrity:** Identity Verification and Fraud Prevention activities.
- F Adjudication:** Eligibility determination based on documentation review. Inadequate documentation creates additional work items and restarts time.
- G First Payment:** Payment is typically made within two days.
- H Weekly Certifications:** Review of claimant's eligibility status.
- I Appeals:** Denials may occur at any point and may be appealable.

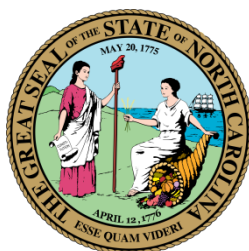
Appendix C

Internal Control Components and Principles Significant to the Audit Objective

The objective of this audit was to determine whether the Department of Commerce, Division of Employment Security limited improper payments to less than 10% of paid claims as required by the United States Department of Labor. If not, identify the impact and causes of improper payments.

Internal control components and underlying principles that were significant to our audit

COMPONENTS AND PRINCIPLES	SIGNIFICANT
CONTROL ENVIRONMENT	
1. The oversight body and management should demonstrate a commitment to integrity and ethical values.	
2. The oversight body should oversee the entity's internal control system.	
3. Management should establish an organizational structure, assign responsibility, and delegate authority to achieve the entity's objectives.	
4. Management should demonstrate a commitment to recruit, develop, and retain competent individuals.	
5. Management should evaluate performance and hold individuals accountable for their internal control responsibilities.	
RISK ASSESSMENT	
6. Management should define objectives clearly to enable the identification of risks and define risk tolerances.	
7. Management should identify, analyze, and respond to risks related to achieving the defined objectives.	X
8. Management should consider the potential for fraud when identifying, analyzing, and responding to risks.	
9. Management should identify, analyze, and respond to significant changes that could impact the internal control system.	
CONTROL ACTIVITIES	
10. Management should design control activities to achieve objectives and respond to risks.	X
11. Management should design the entity's information system and related control activities to achieve objectives and respond to risks.	
12. Management should implement control activities through policies.	X
INFORMATION AND COMMUNICATION	
13. Management should use quality information to achieve the entity's objectives.	
14. Management should internally communicate the necessary quality information to achieve the entity's objectives.	X
15. Management should externally communicate the necessary quality information to achieve the entity's objectives.	X
MONITORING ACTIVITIES	
16. Management should establish and operate monitoring activities to monitor the internal control system and evaluate the results.	X
17. Management should remediate identified internal control deficiencies on a timely basis.	X



RESPONSE FROM DEPARTMENT OF COMMERCE



**NC DEPARTMENT
of COMMERCE**
EMPLOYMENT SECURITY

Roy Cooper
GOVERNOR
Machelle Baker Sanders
SECRETARY
Pryor Gibson
ASSISTANT SECRETARY

September 12, 2022

The Honorable Beth A. Wood, State Auditor
Office of the State Auditor

Dear State Auditor Wood:

Thank you for providing the Department of Commerce Division of Employment Security the opportunity to respond to the performance audit *Improper Unemployment Benefit Payments*.

I would like to express my appreciation to your team for examining this issue and recommending strategies to improve the integrity of the unemployment benefits system. I am pleased to report that many of the strategies recommended in the audit have already been implemented or are in the process of being implemented.

DES agrees with the audit's finding that *'DES's reported improper UI payment rate averaged 18% during the period of April 1, 2016, through March 31, 2021, exceeding the 10% federal improper payment rate.'*

Additionally, DES agrees with the key recommendations that:

- *DES management should implement U.S. DOL recommendations, best practices, and strategies to limit DES's improper payment rate to less than 10% of claims paid.*
- *DES management should implement U.S. DOL recommendations to reduce improper payments attributable to (1) work search requirement errors, (2) benefit year earnings errors, and (3) separation issue errors.*

Following this letter are responses to the audit finding and recommendations. Please contact me if you have any questions regarding our efforts or response.

Sincerely,

Machelle Baker Sanders
Secretary, Department of Commerce

CC: Pryor Gibson, Assistant Secretary for Employment Security

Key Finding

DES's reported improper UI payment rate averaged 18% during the period of April 1, 2016, through March 31, 2021, exceeding the 10% federal improper payment rate.'

DES Response: The Division of Employment Security agrees with the finding that the improper payment rate exceeded the 10% federal standard during the period of the audit. However, DES is encouraged by the improvement in its rate over the last several years and continues to focus on reducing improper payments.

After the U.S. Department of Labor identified North Carolina as a high risk/high impact state, DES partnered with the National Association of State Workforce Agencies Integrity Center in September 2019 to develop and implement a plan to combat improper payments. In the fall of 2020, DES expanded its integrity plan to further improve fraud detection and the recovery of improperly paid funds. Overpayments are recovered mostly through direct claimant payments, by offsetting benefits, and by intercepting state and federal tax refunds, and DES continues to analyze and strengthen its recovery efforts.

The Division of Employment Security remains committed to reducing fraud, waste and abuse in the unemployment benefits system as we deliver efficient and quality service to the people of North Carolina.

Recommendations

The audit recommends that DES implement U.S. Department of Labor recommendations, best practices and strategies to limit the state's improper payment rate. It specifically cites the five following recommendations.

1. *Require work search activities to be reported within the weekly certification process.*

DES Response: In August 2022, the U.S. Department of Labor awarded DES an Equity Grant to improve access to unemployment services and benefits to all those who are eligible. One of the grant projects is the establishment of an online work search repository. The repository will help claimants easily create and store electronic work search records to meet the state's weekly requirements for unemployment benefits, potentially decreasing improper payments. As DES engages a vendor to create the repository, we will evaluate how work search activities can best be reported within or in conjunction with the weekly certification process. The Equity Grant projects have an expected completion date by March 2024.

2. *Ensure that DWS is scheduling and conducting RESEA or EAI interviews with claimants.*

DES Response: In January 2022, DES and DWS established a workgroup that meets monthly to help ensure required RESEA and EAI interviews are scheduled and occur. As a result of workgroup discussions, DES has designated a staff liaison to the RESEA/EAI program who will serve as the point of contact to quickly identify and address issues that prevent individuals from completing required assessments. To further improve participation, the workgroup is currently exploring the use of a self-scheduling tool that would allow

claimants to select their own appointment day and time. DES and DWS have also engaged with a research firm on a three-year project to conduct an evaluation of the RESEA program and develop other strategies for improvement.

3. *Continue to crossmatch with the SDNH to identify as quickly as possible when claimants return to work and monitor to ensure it is working as intended;*

and

4. *Continue requiring claimants to use a wage calculator as part of the weekly claim certification and monitor to ensure it is working as intended.*

DES Response: As stated in the audit, these recommendations have already been carried out by DES, and DES continues to employ and monitor these strategies. DES successfully completed these projects in June 2021.

5. *Create standardized policies and procedures for making separation determinations when the employers' and claimants' reason for separation conflict.*

DES Response: DES will review its policies and procedures to further standardize training and ensure consistency across Adjudication, Benefits Accuracy Measurement and Legal unit processes. Managers representing each of these areas will work together to accomplish this within the next six months.

DES provides adjudication staff with extensive training on how to make separation determinations, and the Adjudication unit has earned high federal scores for the quality of its separation determinations.

DES's adjudicator training is based on the U.S. Department of Labor's *Benefits Timeliness and Quality (BTQ) manual, ET Handbook 301*. Adjudicators make determinations on a case-by-case basis by applying the law and using the facts available at the time of the review. Staff are trained on how to gather additional information from the parties when necessary and on how to handle rebuttals when there is a separation conflict.

There are also multiple internal controls in place to ensure adjudicators are correctly and consistently applying the law:

- All newly hired adjudicators' cases are reviewed for the first months of their work.
- Adjudication supervisors and training staff continue to randomly review adjudication work and decisions across the Adjudication unit to ensure proper application of law.
- DES's Quality Control unit administers the U.S. Department of Labor Benefits Accuracy Measurement (BAM) and Benefit Timeliness and Quality (BTQ) programs to sample the work of adjudication staff to ensure they have accurately applied state law. Adjudication's Separation Quality Scores currently surpass federal standards.

-end-

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