

COMMONWEALTH OF PENNSYLVANIA  
HOUSE OF REPRESENTATIVES

HOUSE STATE GOVERNMENT COMMITTEE HEARING

STATE CAPITOL  
IRVIS OFFICE BUILDING  
ROOM G-50  
HARRISBURG, PENNSYLVANIA

WEDNESDAY, JULY 21, 2021

IN RE: GOVERNMENT WASTE AND IMPROPER PAYMENTS

BEFORE:

HONORABLE SETH GROVE, MAJORITY CHAIRMAN  
HONORABLE MAUREEN MADDEN, ACTING MINORITY CHAIRMAN  
HONORABLE RUSS DIAMOND  
HONORABLE DAWN KEEFER  
HONORABLE ANDREW LEWIS (V)  
HONORABLE RYAN MACKENZIE (V)  
HONORABLE FRANK RYAN  
HONORABLE LOUIS SCHMITT (V)  
HONORABLE CRAIG STAATS  
HONORABLE JEFF WHEELAND  
HONORABLE ISABELLA FITZGERALD (V)  
HONORABLE KRISTINE HOWARD (V)  
HONORABLE BENJAMIN SANCHEZ (V)  
HONORABLE REGINA YOUNG

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1 P R O C E E D I N G S

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3 MAJORITY CHAIRMAN GROVE: Good afternoon.

4 Welcome to this public hearing of the  
5 Pennsylvania House State Government Committee on government  
6 waste and improper payments.

7 This Committee has taken up three bills dealing  
8 with improper payments sponsored by Representative Gaydos,  
9 Representative Owlett, and myself, which all build upon a  
10 bipartisan work of the Federal Improper Payment Laws.

11 To be clear, improper payments is not  
12 specifically fraud. They are payments made in error,  
13 overpayments, underpayments, payments made without correct  
14 documentation, or potentially fraud.

15 The Federal Government has spent significant  
16 resources and time in combating improper payments and since  
17 State Governments routinely administer Federal programs, we  
18 are held accountable to these Federal improper payment  
19 policies.

20 Today's hearing is to educate the members of the  
21 Committee and the general public about improper payment  
22 policies and how other states are dealing with improper  
23 payments.

24 As Barack Obama stated on July 22nd, 2010, quote,  
25 this isn't just about lines on a spreadsheet or numbers in a

1 budget because when we all fail to spend people's tax  
2 dollars wisely, that's money we're not investing in better  
3 schools for our kids or tax relief for families or  
4 innovation to create new industries and new jobs. When  
5 government doesn't work like it should, it has real effects  
6 on people's lives, on small business owners who need loans,  
7 on young people who want to go to college, on the men and  
8 women who serve this country and are trying to get the  
9 benefits that they've earned.

10 And when we continue to spend it as if deficits  
11 don't matter, that means our kids and our grandkids may wind  
12 up saddled with debts that they'll never be able to pay.

13 With that, Representative Madden, any opening  
14 comments? I'm glad you're feeling better.

15 REPRESENTATIVE MADDEN: Thank you, Mr. Chairman.

16 I'm happy to be here. And certainly I believe  
17 our No. 1 job is to be good stewards of the taxpayers'  
18 money. And I'm looking forward to the testifiers and the  
19 material that we're going to go over and the pieces of  
20 legislation to see where we can do better.

21 Thank you.

22 MAJORITY CHAIRMAN GROVE: Thank you.

23 We have members and testifiers in attendance  
24 virtually as well as the public viewing via live stream.  
25 Due to Sunshine Law requirements, if either of these

1 platforms experience technical difficulties, we will pause  
2 the meeting in order to correct the issues.

3 For members participating virtually, please mute  
4 your microphones. Please know when you speak, we all hear  
5 you. If you want to be recognized for comments, please use  
6 the raise hand function. After being recognized, but prior  
7 to speaking, please turn on your camera and unmute your  
8 microphone. After you've completed your questions, please  
9 mute your microphone.

10 And we will go to member introductions starting  
11 with the troublemakers in the back row.

12 REPRESENTATIVE RYAN: I'm Frank Ryan,  
13 representing the 101st District in Lebanon County,  
14 Pennsylvania.

15 REPRESENTATIVE DIAMOND: I'm Russ Diamond,  
16 representing the 102nd District, one better than 101, in  
17 Lebanon County, Pennsylvania.

18 REPRESENTATIVE STAATS: Thank you, Chairman  
19 Grove.

20 And good afternoon, everyone. My name is Craig  
21 Staats, representing the 145th Legislative District in Bucks  
22 County.

23 MAJORITY CHAIRMAN GROVE: And looking -- Andrew  
24 Lewis, I see you. Go ahead and introduce yourself.

25 REPRESENTATIVE LEWIS: Thank you, Chairman.

1                   Good afternoon, everybody. Andrew Lewis, 105th  
2                   District here in beautiful Dauphin County.

3                   MAJORITY CHAIRMAN GROVE: Regina, go ahead.

4                   REPRESENTATIVE YOUNG: Regina Young, representing  
5                   Philadelphia and Delaware Counties.

6                   Thank you.

7                   MAJORITY CHAIRMAN GROVE: Representative  
8                   Fitzgerald.

9                   REPRESENTATIVE FITZGERALD: Good afternoon.  
10                  Isabella Fitzgerald, representing the 203rd  
11                  Legislative District in Philadelphia.

12                  MAJORITY CHAIRMAN GROVE: Representative Howard.

13                  REPRESENTATIVE HOWARD: Hi. It's Kristine Howard  
14                  from the 167th in Chester County.

15                  MAJORITY CHAIRMAN GROVE: Representative Schmitt.

16                  All right. We'll come back.

17                  Representative Mackenzie.

18                  REPRESENTATIVE MACKENZIE: Good afternoon.

19                  I'm Representative Ryan Mackenzie from the 134th  
20                  District.

21                  Thank you.

22                  MAJORITY CHAIRMAN GROVE: Representative Sanchez.

23                  REPRESENTATIVE SANCHEZ: Good afternoon.

24                  I'm Ben Sanchez, representing part of Montgomery  
25                  County.

1 MAJORITY CHAIRMAN GROVE: One more time for  
2 Representative Schmitt.

3 REPRESENTATIVE SCHMITT: Thank you, Mr. Chairman,  
4 for coming back to me. I apologize. I turned my camera  
5 off. When I turned my camera off, it also turned my  
6 microphone off.

7 Lou Schmitt here, 79th Legislative District, city  
8 of Altoona and other portions of Blair County.

9 MAJORITY CHAIRMAN GROVE: Thank you.

10 And I'm trying to scroll through. Did I miss any  
11 members on virtually?

12 Hearing none, thank you all for your attendance  
13 today.

14 And we will head to our first panel, Zach Herman,  
15 Policy Associate with NCSL, National Conference of State  
16 Legislatures, will be giving us an overview of improper  
17 payments.

18 Thank you so much, Zach, for joining us today.

19 MR. ZACH HERMAN: Thank you, Chairman Grove.

20 And thank you, Committee members, as well.

21 So again, my name is Zach Herman. I'm a policy  
22 associate with the Employment, Labor, and Retirement Program  
23 at the National Conference of State Legislatures.

24 Before I begin, a brief overview of who NCSL is.  
25 We are a membership organization that serves you, the

1     lawmakers, state lawmakers, and your staff directly. We are  
2     a non-partisan, bipartisan organization, which means we do  
3     not write any model legislation. We do not endorse any  
4     particular piece of legislation or policy idea. And we also  
5     do not take any sort of political stance one way or the  
6     other.

7             I will be speaking today giving a broad overview  
8     of improper payments as a whole, providing a landscape  
9     comparing Pennsylvania to New York and Ohio, and then  
10    providing an overview of enacted legislation and general  
11    strategies that we've seen adopted to address both fraud and  
12    improper payments.

13            So I'll go ahead and start with my slides. You  
14    should have copies of my slides shared with you. First I'll  
15    talk about some general important points to consider when  
16    talking about improper payments, both generally and with  
17    special consideration for 2020 and 2021, since the pandemic  
18    did some extra things and special things to consider when  
19    thinking about improper payments.

20            So firstly, every state's laws, regulations, and  
21    policies are different. No state regulates unemployment  
22    insurance payments the same way. And so it's a little bit  
23    like comparing lemons to limes to oranges when talking about  
24    how states pay out payments. This includes both eligibility  
25    requirements, program infrastructure, and replacement rates.



1           Next, the pandemic really had a huge impact on  
2           how unemployment insurance payments go out. So everyone --  
3           or at least most everyone who works in this field has seen  
4           the graph of weekly new claims going from around two  
5           hundred, three hundred thousand per week to skyrocketing  
6           into the millions.

7           Any system would be overwhelmed by that. No  
8           state was able to weather that storm smoothly. So that's  
9           another thing to consider is that in the pandemic, there was  
10          a huge wave of new applications that systems had to deal  
11          with on top of new programs coming out of the CARES Act that  
12          also change how states had to nimbly and flexibly change  
13          these programs and adapt with those differences.

14          Finally, unemployment insurance, with all other  
15          sorts of programs, no program is perfect. Every program  
16          will have some level of improper payments. In 2019, out of  
17          an audit from the Department of Labor and the Treasury,  
18          unemployment as a whole had an improper payment rate of  
19          about 10 percent, a little bit over. And there are lots of  
20          different ways that improper payments can happen.

21          I'll get into detail about the definitions a  
22          little bit later. But generally they can happen through  
23          claimant error, through applicants who have never applied  
24          before making errors on their applications, through employer  
25          error, like employee misclassification, or through agency

1 error, and then also fraud.

2 Moving on to where I'm polling this data from.  
3 So this comes from the BAM Report, the Benefit Accuracy  
4 Measurement Report. BAM in general is a program that  
5 changed from the Benefits Quality Control Program in 1996 to  
6 Benefits Accuracy Measurement.

7 It's designed to determine the accuracy of paid  
8 and denied claims in the three major claims and three major  
9 unemployment insurance programs. It does this by  
10 reconstructing claims process for samples of weekly payments  
11 and denied claims using data verified by trained  
12 investigators for claims that were overpaid, underpaid, or  
13 improperly denied.

14 BAM determines the cause of and party responsible  
15 for the error, the point in the claim's process at which the  
16 error was detected, and actions taken by the agency and  
17 employers prior to the error. For erroneous claims, BAM  
18 determines the amount of the benefit the claimant should  
19 have received.

20 So all of the data that I'm about to share with  
21 you is drawn from the January 1st, 2020, to December 31st,  
22 2020, BAM Report.

23 So first I'll start with improper payment rates  
24 for 2020. Federal law defines the term improper payment as,  
25 A, any payment that should not have been made or was made in

1 an incorrect amount, including overpayments and  
2 underpayments, under statutory, contractual, administrative,  
3 or other legally applicable requirements and, B, any  
4 payments to an ineligible recipient, any payment for an  
5 ineligible service, and any duplicate payments for services  
6 not received and any payment that does not account for  
7 credit for applicable discounts.

8 They are generally required to review all  
9 programs and activities they administer and identify those  
10 that may be susceptible to significant errors.

11 So first we'll look at the three states and the  
12 amounts that were reported as improper payments for the  
13 three states listed here.

14 Pennsylvania paid just over around \$500 million  
15 in improper payments. New York paid a little bit over \$6  
16 trillion, and Ohio paid just below \$2 trillion,  
17 \$1,851,000,000.

18 Looking at overpayments specifically, overpayment  
19 rate is defined in an unemployment insurance program letter,  
20 9-13, and it's the total weighted amount of payments  
21 determined to be overpaid divided by the total -- by the  
22 weighted dollar amount paid in the BAM sample population.

23 The rate includes fraud, non-fraud recoverable  
24 payments, and non-fraud, non-recoverable payments. All  
25 causes and responsible parties are also included in this

1 rate.

2 The overpayment rate for 2020 in Pennsylvania was  
3 around 16 percent, about \$84 million. The overpayment rate  
4 in New York was around -- just below 19 percent, at around  
5 \$1 trillion, and the overpayment rate for Ohio was around 11  
6 percent at \$212 million.

7 Next is the underpayment rate. Underpayment rate  
8 is defined, again, unemployment insurance program letter No.  
9 9-13. And it is the total weighted amount of payments  
10 determined to be underpaid divided by the weighted dollar  
11 amount paid in the BAM sample population.

12 Again, it includes all responsible parties and  
13 includes errors where additional payments were made to the  
14 claimant. It excludes those areas where they -- that were  
15 technically proper due to finality rules, technically due to  
16 rules other than finality.

17 So for Pennsylvania, the underpayment rate is at  
18 .45 percent or around \$2 million. In New York the  
19 underpayment rate is at .75 percent, which is around \$45  
20 million. And in Ohio the underpayment rate is at .1 percent  
21 or around \$1 million.

22 Next we have the fraud rate. So the definition  
23 of unemployment compensation fraud varies significantly from  
24 state to state. There is no Federal definition of fraud.  
25 Generally, fraud involves a knowing and willful act and/or

1 concealment of material facts to obtain or increase benefits  
2 when benefits are not due. States vary on the level of  
3 evidence required to demonstrate a knowing and willful act  
4 of concealment of facts.

5 An overpayment, which is classified as fraud  
6 overpayment, in one state may be determined to be a  
7 non-fraud overpayment in another state. Often fraud  
8 determinations include looking at a pattern or action of the  
9 claimant certification of erroneous information under the  
10 penalty of perjury.

11 Also states differ on the implementation of fraud  
12 administrative penalty determinations. In some states a  
13 fraud determination becomes effective on the date of the  
14 fraudulent act. In other states, the administrative penalty  
15 takes effect on the determination date.

16 Since fraud determination criteria thresholds  
17 vary throughout state workforce agencies, a state's  
18 individual -- an individual state rate reflects these  
19 differences. The rates include all causes and responsible  
20 parties. So for Pennsylvania, the fraud rate is at 13.97  
21 percent. In New York the fraud rate is at 13.36 percent.  
22 And in Ohio the fraud rate is at 2.49 percent.

23 Finally, there's the agency responsible rate.  
24 This rate includes overpayments for which the state  
25 workforce agency was either solely responsible or shared

1 responsibility with claimants, employers, or third parties,  
2 such as labor unions or private employment referral  
3 agencies. The rate includes fraud, non-fraud recoverable  
4 payments, and non-fraud, non-recoverable payments. It  
5 excludes payments that are technically proper due to  
6 finality or other rules. So the agency responsible rate for  
7 Pennsylvania is at 2.66 percent. The agency responsible  
8 rate for New York is at 6.69 percent. And the agency  
9 responsible rate for Ohio is at 3.54 percent.

10 Again, before I move on to the next slide, adding  
11 that grain of salt, that all three of these states have  
12 different ways of administering unemployment insurance, so  
13 take these comparison numbers with a little bit of a grain  
14 of salt.

15 Moving on to overpayment responsibility.  
16 Included in the BAM Report is a breakdown of sort of where  
17 the responsibility lies for the bulk of overpayments  
18 specifically. So looking at Pennsylvania, claimants hold  
19 the bulk of responsibility for the bulk of the overpayments  
20 paid out. So for every dollar in overpayments paid,  
21 claimants were responsible for about 46 cents for every  
22 dollar of overpayments paid.

23 The next highest level was claimant or employer  
24 responsibility, claimant and employer responsibility. So  
25 this means that in the process there was a mistake on the

1 employer side and the claimant side that led to an  
2 overpayment. Again, for every dollar in overpayments, about  
3 30 cents of that overpayment was caused by both the claimant  
4 and the employer making some sort of mistake on the  
5 application.

6 Then finally the third highest level is agency  
7 only responsibility, which is about 13.72 percent. Moving  
8 on to New York, again the claimant only is the highest sort  
9 of ranking in terms of who was most responsible for the bulk  
10 of overpayments.

11 Claimant only rates are about 58.75 percent in  
12 New York. New York's second highest level is in line with  
13 Pennsylvania where claimant and employer mistakes led to  
14 about 7.29 percent in overpayments. And then finally again  
15 with Pennsylvania, New York had an agency only rate as their  
16 third highest at about 9.3 percent. Then moving on to Ohio,  
17 Ohio is in line with New York and Pennsylvania. And that  
18 claimant only -- claimant and employer and third agency are  
19 the three most often responsible parties for overpayments.

20 Ohio had a claimant only responsibility rate of  
21 around 55.41 percent, had a claimant and employer  
22 responsibility rate of 10.21 percent, and an agency only  
23 responsibility rate of about 6.03 percent.

24 Then finally it's always important to talk about  
25 recovery rates as well. These monies do not just go out and

1 then don't come back. All states recover some or all of  
2 those funds. So looking at recovery rates for the last five  
3 quarters, you'll see that it varies sort of significantly  
4 and that some of those recovery rates are over 100.

5 So in general, recovery rates is the ratio of  
6 reported overpayments recovered to overpayments established  
7 in the same time period. However, the amounts recovered for  
8 any quarter may be from overpayments established in previous  
9 time periods in the past few years. State implementation of  
10 treasury offset programs to recover overpayments through  
11 Federal tax offsets has resulted in high recovery of  
12 overpayments previously established.

13 Due to this high recovery of overpayments  
14 established in previous quarters, recovery rate ratio may  
15 result in some results exceeding 100 percent. So this is  
16 why you get some of those rates that are above 100 percent.

17 You'll see in Q1 through Q3 of 2020, Pennsylvania  
18 had a recovery rate of over 50 percent. And then it dropped  
19 down to 35 percent in Q4 and 28 percent in Q1. I would not  
20 say that this is a predictor. This is more of a snapshot of  
21 the last five quarters. These rates are not going to say  
22 whether their recovery rates will continue to dip or whether  
23 they will shoot up or whether they will remain the same.

24 Looking at New York, New York had a recovery rate  
25 in Q1 of 137 percent and then it shoots up to 717 percent in



1 Q2. It dropped down to 91 percent in Q3 and then dropped  
2 down even more in Q4 and Q1 of 2021 to 19 and 29 percent.

3 Then finally looking at Ohio, Ohio had their  
4 highest recovery rate in Q1 at 134 percent, then 84 percent,  
5 31 percent, 19 percent. And then in Q1 of 2021 they are at  
6 91 percent recovery rate.

7 So all of that data added in there, it was a  
8 little bit like drinking from a firehose. And so I  
9 encourage you to send any questions that you have to me.  
10 I'll provide my e-mail at the end. I'm going to move on to  
11 enacted legislation that we at NCSL have been tracking  
12 related to both fraud and overpayments.

13 We see about ten pieces of enacted legislation in  
14 2021. The bulk of these pieces of legislation are requiring  
15 studies on either fraud, improper payments, or overpayments.  
16 Some of them are allowing for the use of CARES Act money to  
17 waive overpayments for claimants who seem to be at fault or  
18 maybe made mistakes on their application that they were  
19 unaware of. And then a couple of them are establishing  
20 interim -- to study other effects related to improper  
21 payments or payment rates.

22 Then finally looking at overall trends that we're  
23 seeing both in the Legislature and in the Executive Branch  
24 related to overpayments. A couple of states have begun  
25 using identity verification systems like ID.me. So in 2020,

1 in the early months of the pandemic, there was a report by  
2 the Secret Service identifying significant foreign fraud  
3 coming from identity theft rings overseas. And so many  
4 states began using these identity verification systems to  
5 help weed out some of those applications that may be due to  
6 identity thefts.

7 A couple of states implemented fraud reporting  
8 systems. So this allows for people who may think they have  
9 been the victim of identity theft or received an  
10 unemployment insurance payment but did not apply for it to  
11 report this fraud to the agency. Then a lot of web pages  
12 and flow charts and frequently asked questions and call  
13 centers to help new applicants.

14 Again in that wave of millions of people applying  
15 for unemployment insurance in the first weeks of the  
16 pandemic, most of these applicants had never applied before  
17 in their life. And the applications can often be confusing,  
18 especially if you're unsure of your employee status. You  
19 may have been temporarily furloughed and so that also  
20 changes sort of what you click and why you click it. And so  
21 people might have made mistakes so there were significant  
22 web pages and explainers explaining if you don't qualify for  
23 unemployment insurance, then you will apply for PUA. These  
24 are the documents you need for PUA, etc., etc.

25 Also upgrades in technology, either upgrading

1 computer systems to handle the larger -- or to check for  
2 sort of errors or duplications that may lead to fraud or  
3 overpayment using ID.me.

4 And then finally increasing staffing at large.  
5 So this includes both contracting out with call centers to  
6 help answer questions with people who are applying for the  
7 first time and increasing staffing in general in the state  
8 workforce agency to help manage loads, which can reduce  
9 errors on the agency side.

10 And with that, I will show different ways that  
11 you can stay in contact with NCSL. We have a variety of web  
12 pages on unemployment insurance at large, including web  
13 pages that is sort of a 101 on improper payments and fraud  
14 for unemployment insurance and a 101 on unemployment  
15 insurance financing systems.

16 We also have an upcoming base camp session, which  
17 is our virtual conference, where Michelle Evermore, the  
18 Senior Policy Analyst for the Department of Labor, will be  
19 presenting on unemployment insurance and answering  
20 questions. And I encourage everyone to attend that as well.

21 And with that, I will open it up for any  
22 questions from the Committee or from the Chair. And again,  
23 I would like to thank the Committee and Chair Grove for  
24 allowing me to attend and testify.

25 REPRESENTATIVE DIAMOND: Well, thank you,

1 Mr. Herman, for participating today in this hearing on  
2 improper payments.

3 And I would just like to state, Chairman Grove  
4 had to step out for a couple minutes. I'll be chairing the  
5 meeting until he comes back.

6 This issue spans all levels of government and  
7 it's not unique to any one particular state, as we've seen  
8 here by your presentation.

9 When improper payments are made, I mean, we're  
10 talking about money that could be used for other state  
11 programs. So could you just give us a general idea of how  
12 improper payments affect the different states across the  
13 nation?

14 MR. ZACH HERMAN: Yes. Thank you, Committee  
15 member and Chair.

16 Let me make sure that I understand your question.  
17 So you're asking about how it impacts the state financially  
18 or how it impacts the program sort of generally?

19 REPRESENTATIVE DIAMOND: Financially and the  
20 program generally.

21 MR. ZACH HERMAN: Okay. Thank you for that  
22 clarification.

23 So financially it's money that should not have  
24 gone out and it's not always recoverable. And so it's money  
25 coming out of the State Trust Fund and going to people when

1 they shouldn't have. So this can lead to, you know, money  
2 that shouldn't have gone out.

3 Then on top of program performance in general, it  
4 can lead to sort of distrust of the system, distrust of  
5 government, sort of general ideas about proper use of  
6 taxpayer money.

7 REPRESENTATIVE DIAMOND: Let me just give you two  
8 quick followups related to your presentation.

9 I notice when you were talking about overpayments  
10 by responsibility, it seems that Pennsylvania had 30 percent  
11 for claimant plus employer is much higher than the other two  
12 states. Would you say that that's determinative of our  
13 process for getting information from the claimant and the  
14 employer and that that process is problematic as compared to  
15 the other two states and that might be the reason why it's  
16 three times higher or more than the other two states?

17 MR. ZACH HERMAN: Thank you, Chair.

18 Unfortunately, I cannot say one way or the other  
19 why that rate is the way that it is. That's unfortunately  
20 data that I do not have access to. And I would be cautious  
21 about comparing state processes because every state is  
22 different and every process is different. And so it's hard  
23 to say one way or the other whether or not the process is  
24 that reason.

25 And adding on top of that, this is data from 2020

1 which was an unprecedented year in multiple, multiple ways.  
2 And so it's not really something I can make any sort of  
3 determination on.

4 REPRESENTATIVE DIAMOND: Okay. And just one  
5 quick followup. Does NCSL do any kind of tracking of the  
6 cost to actually track improper payments and how that adds  
7 to the burden of improper payments? Is there any kind of  
8 overall tracking of that?

9 MR. ZACH HERMAN: NCSL does not track it  
10 directly. So this is all data that we're pulling from the  
11 Department of Labor directly. I would see if the Department  
12 of Labor has that tracking. That's not something that we do  
13 specifically.

14 REPRESENTATIVE DIAMOND: All right.

15 Thank you, Mr. Herman.

16 Let's move on to other member questions now.

17 We will go to Representative Wheeland.

18 REPRESENTATIVE WHEELAND: Thank you, Mr. Chair.

19 And thank you very much for your testimony today  
20 and your time.

21 MR. ZACH HERMAN: Sure.

22 REPRESENTATIVE WHEELAND: In 2002, President Bush  
23 signed the Improper Payments Information Act. And then  
24 later President Obama amended that act with the Improper  
25 Payments and Recovery Act of 2010 and then the Improper

1       Payments Elimination and Recovery Improvement Act of 2012.  
2       So basically three different acts that are involved here.

3               Can you give us a brief explanation of what these  
4       acts do? And then how do these acts relate to the state  
5       agencies?

6               MR. ZACH HERMAN: Thank you, Chair.

7               Unfortunately, I did not prepare any brief  
8       summaries for those acts, so I cannot provide sort of a  
9       brief overview. However, I can prepare those materials and  
10      send them to the Committee after this testimony.

11              REPRESENTATIVE WHEELAND: Thank you.

12              That would be very helpful because, you know, I'm  
13      just trying to figure out, you know, the connection and how  
14      it could help the Commonwealth.

15              Thank you very much. I'll look forward to that  
16      information.

17              MR. ZACH HERMAN: Okay.

18              REPRESENTATIVE DIAMOND: Chairwoman Madden.

19              REPRESENTATIVE MADDEN: Thank you, Mr. Chairman.

20              And thank you, Zach, for your testimony. I have  
21      a quick question. There was an article on the news a couple  
22      of weeks ago that talked about how every time our website  
23      was hacked, our UC website was hacked, it led to an uptick  
24      in fraudulent unemployment claims. Are those factored into  
25      these numbers?

1 MR. ZACH HERMAN: So I do not know if it's  
2 specifically looking at hacks and how that relates to these  
3 numbers. These numbers are pulled from the Benefits  
4 Accuracy Measurement Report for the year 2020 to 2021. It  
5 does include fraud, sort of what payments have been  
6 classified as fraud in that.

7 However, these numbers are pulled from a sample.  
8 They are not the full, complete census of numbers from each  
9 state workforce agency.

10 REPRESENTATIVE MADDEN: Okay. A quick followup.  
11 So are you able to separate claims where  
12 individuals went in there and tried to process false claims  
13 or ones that were resulting -- that were the result of a  
14 hack?

15 MR. ZACH HERMAN: I am not able to break down the  
16 numbers like that, no. I apologize.

17 REPRESENTATIVE MADDEN: Okay. Thank you.

18 REPRESENTATIVE DIAMOND: Mr. Herman, one of the  
19 things that the Federal Improper Payments Act requires is a  
20 Payment Error Rate Measurement Report, or a PERM Report,  
21 completed by our State's Department of Human Services.

22 Can you tell us what is a PERM Report? What data  
23 is examined? And quite frankly, I was astounded at  
24 Pennsylvania's 77 percent error rate in Medicaid eligibility  
25 audit samples. Is this above or below the national average?



1           MR. ZACH HERMAN: So I cannot speak to Medicaid  
2 error rates one way or the other. And I did not prepare any  
3 PERM Reports or a summary of what PERM Reports are as well.  
4 But I can send that to the Committee after this testimony.

5           REPRESENTATIVE DIAMOND: All right. Thank you.  
6 Let's move along to Representative Keefer.

7           REPRESENTATIVE KEEFER: Thank you, Mr. Chairman.

8           Getting back to what you spoke briefly about, the  
9 2012 Improper Payments Elimination and Recovery Improvement  
10 Act that was codified. Can you talk a little bit to that,  
11 the choice to opt in or opt out of it? What role does that  
12 play with the recovery rates?

13          MR. ZACH HERMAN: So, unfortunately, I do not  
14 have those numbers comparing states that have opted in  
15 versus opted out and the recovery rates. But I can prepare  
16 that for the Committee after this testimony.

17          REPRESENTATIVE KEEFER: Just in generalities, the  
18 role that it does play, is it beneficial? Have you seen a  
19 rise in, you know, more efficiency or recovery of funds in  
20 general with the codification of that act?

21          MR. ZACH HERMAN: Thank you, Representative.

22           I have not looked at those numbers specifically  
23 in that way, so I cannot speak one way or the other about  
24 that comparison.

25          REPRESENTATIVE KEEFER: Okay. So in your

1 opinion, do you think it's a good or useful tool to have?

2 MR. ZACH HERMAN: I don't have -- I can't provide  
3 an opinion one way or the other. I can provide the data and  
4 provide that comparison. I don't have that data prepared  
5 now but I can send that to the Committee after testimony.

6 REPRESENTATIVE KEEFER: All right. Thank you.

7 REPRESENTATIVE DIAMOND: Let me just follow that  
8 up. You mentioned about states opting in. How do states  
9 actually opt in to a program like the Do Not Pay Program?  
10 Is that a legislative move or is it generally an Executive  
11 Branch kind of executive decision that they do to opt into a  
12 Do Not Pay Program?

13 MR. ZACH HERMAN: I actually do not know. I  
14 cannot answer that question. Generally, it is either a  
15 legislative move or it's a program letter sent from the  
16 Department of Labor to either the Treasury -- from the State  
17 Department of Labor to the Employment Training  
18 Administration or the Treasury. However, I do not know  
19 specifically with this program.

20 REPRESENTATIVE DIAMOND: All right. Thank you.

21 Let's go to Representative Ryan.

22 REPRESENTATIVE RYAN: Mr. Chairman, thank you so  
23 much.

24 And, Zach, thank you for being here today. We  
25 really appreciate it.

1 I'd like to kind of follow up on the Benefit  
2 Accuracy Measurement Program. You may not have details, but  
3 I'd love to have NCSL take a look at this kind of a question  
4 relative to how accurate the system reporting is.

5 I'm looking at the information on the improper  
6 payment rate for 2020. And, as a CPA, I would be curious  
7 about the level of confidence that you would have and the  
8 comfort the State Legislators would have relative to the  
9 accuracy of the details that would have been provided under  
10 the Benefit Accuracy Measurement Program since the level of  
11 specificity is pretty significant. And I realize that there  
12 are trained investigators that are doing it.

13 Has anyone at NCSL looked at whether or not there  
14 has been an audit of that system to ensure whether or not  
15 it's accurate since we will be making policy decisions based  
16 upon the information provided in this system?

17 MR. ZACH HERMAN: NCSL has not done that audit.  
18 And I am unaware of any audits of the accuracy one way or  
19 the other. The BAM and its data sheets in its report does  
20 provide sort of the caveat saying that the data may change  
21 from week to week or month to month as states sort of  
22 complete other cases that may be pending or submit more  
23 data. And that's especially true with 2020 where a lot of  
24 states changed or suspended their BAM submissions  
25 specifically because of the programs coming in.

1           This is the most accurate data available to the  
2 Department of Labor. But I would suggest contacting the  
3 Department of Labor to have their opinion provided on the  
4 accuracy of the documents.

5           REPRESENTATIVE RYAN: And I appreciate that.

6           And it somewhat dovetails on the great question  
7 that Representative Madden asked in the sense that we're  
8 looking at trying to make policy decisions based upon this.  
9 And in 2020, we had an unusual year with the pandemic.

10          When you consider that a number of people were  
11 brought on to work in the Labor & Industry Department and I  
12 concur with that, a record filing of unemployment claims, I  
13 would be concerned about the level of accuracy. I mean, as  
14 an example, a fraud rate of 14 percent in my world would  
15 cause me to have a coronary. And yet I'm questioning  
16 whether or not we can draw any real conclusion out of that  
17 information.

18          I'm trying to get an idea of whether or not there  
19 are any sources we can go to to determine that accuracy or  
20 is that something that, like, an Auditor General would have  
21 to identify and go back and verify?

22          MR. ZACH HERMAN: So I've not had access to any  
23 of the data that is more accurate than what I currently  
24 presented.

25          REPRESENTATIVE RYAN: Thank you so much.

1 MR. ZACH HERMAN: Sure.

2 REPRESENTATIVE RYAN: Mr. Chairman, thank you.

3 REPRESENTATIVE DIAMOND: Thank you, sir.

4 Representative Staats.

5 REPRESENTATIVE STAATS: Thank you, Mr. Chairman.

6 Mr. Herman, in your testimony you've identified  
7 overall trends and strategies. And the first thing you  
8 identified was the use of identity verification services  
9 like ID.me, which seems to attempt to simplify how  
10 individuals securely prove and share their identity online.

11 Can you speak to this program and give the  
12 Committee an idea how that program works?

13 MR. ZACH HERMAN: I have no direct involvement  
14 with the program and cannot speak to the specifics. It's an  
15 identity verification program and that is sort of the limits  
16 of what I know about it.

17 REPRESENTATIVE STAATS: Okay. Fair enough.

18 Thank you.

19 MR. ZACH HERMAN: Sure.

20 REPRESENTATIVE DIAMOND: Thank you, Mr. Herman.

21 We really do appreciate your participation today.

22 We are going to move on to our next panel now.

23 Our next panel consists of -- it's entitled  
24 Lessons From Other States on Government Waste and Improper  
25 Payments. With us we have Chris Magee, who is a Performance

1     Audit Data Analytics Manager; and Brent McDougall,  
2     Performance Audit Senior Data Analyst, from the Louisiana  
3     Legislative Auditor. We also have Beth Wood, CPA, who is a  
4     State Auditor from the North Carolina Office of the State  
5     Auditor.

6             Thank you so much for joining us today. And if  
7     you could all turn on your cameras.

8             Mr. Magee, are you sharing a space with  
9     Mr. McDougall or is he separate from you?

10            MR. CHRIS MAGEE: He's separate from me.

11            REPRESENTATIVE DIAMOND: Oh, there he is. I see  
12     him there. Okay. Great.

13            Well, good afternoon, State Auditor Wood,  
14     Mr. Magee, Mr. McDougall. Thank you all for attending our  
15     meeting today on improper payments. Both of your states  
16     have done extensive work into identifying and fixing your  
17     state's improper payment issues. In order to better  
18     understand the issues that our state faces, we must  
19     understand what other states have gone through.

20            Who wants to go first? Do you have any testimony  
21     that you will present today?

22            MR. CHRIS MAGEE: Yes. This is Chris Magee with  
23     the Legislative Auditors Office. We do have some testimony  
24     that we will present and then we'll gladly take any  
25     questions.

1 REPRESENTATIVE DIAMOND: And, Madam, do you have  
2 any testimony?

3 MS. BETH WOOD: This is State Auditor Beth Wood.  
4 I do have testimony. And once I'm finished, I would be glad  
5 to take questions.

6 REPRESENTATIVE DIAMOND: Okay. Well, we're going  
7 to go ladies first. So you're up. Feel free.

8 MS. BETH WOOD: I'm sorry. Are you asking me to  
9 go first? I can't hear you.

10 REPRESENTATIVE DIAMOND: Go ahead, Ma'am.

11 MS. BETH WOOD: As I said, I'm Beth Wood, North  
12 Carolina State Auditor's Office. One of the types of audits  
13 that we do are performance audits. We are looking at  
14 improper payments where we've been concentrating on  
15 Medicaid. It is half our budget. We spend approximately  
16 \$14 billion a year. And for every dollar spent in Medicaid  
17 monies, two-thirds comes from the Federal Government,  
18 one-third comes from our state coffers.

19 So we are looking at -- we looked at in 2020 --  
20 we published a report in February 2021 -- eligibility of the  
21 Medicaid providers. In the state of North Carolina we serve  
22 2.5 million beneficiaries, participants in the Medicaid  
23 program. We have 90,000 healthcare providers. And they can  
24 be doctors, dentists, in-home health care providers for  
25 substance abuse, mental health issues, disabilities. It can

1 be hospitals. The list just goes on and on and on.

2 We wanted to make sure that those who are  
3 providing Medicaid services are, in fact, eligible. The  
4 General Accountability Office, the GAO, puts out a report.  
5 Their last one that they put out in 2018 stated that of the  
6 \$36 billion in improper payments in Medicaid, a third of  
7 that, \$12 billion, was paid to ineligible providers.

8 So then we wanted to make sure that the state of  
9 North Carolina is not a part of that number. So we  
10 performed an audit to look at the process and then where the  
11 problems were for North Carolina. DHHS determines providers  
12 to be eligible.

13 Federal law requires that once you're determined  
14 to be eligible, five years later you have to be reverified  
15 to be eligible. This eligibility inquiry, this application  
16 that you put in, the inquiry comes back and includes  
17 background checks looking for perfect credentials,  
18 fingerprinting, and sometimes even required training.

19 So what we did, we looked for, first, those who  
20 were supposed to have a license. So we went to all the  
21 licensing boards, doctors, dentists, nurses, physicians  
22 assistants, whatever. And we looked at the Disciplinary  
23 Boards and we found that there were 66 providers of Medicaid  
24 services that had disciplinary actions against their  
25 licenses. We found that 26 of them had lost or suspended



1 licenses. And we found that 18 of them were still serving  
2 Medicaid patients, no license, either lost or suspended, and  
3 they were still serving Medicaid patients. And we paid them  
4 over a year and a half time \$1.6 million.

5 So then of these 66 providers, we also found that  
6 there were 36 of them with license limitations. So you have  
7 a license if you're a dentist, you have a medical license,  
8 and then you also have a license to administer anesthesia.  
9 And again, out of the 36, we found there were a number of  
10 them who had limitations on their licenses. For instance, a  
11 dentist was a surgeon, could administer anesthesiology, had  
12 a medical license. We found they lost their dental license  
13 but retained their medical license and yet they were still  
14 providing a couple of services that required a dental  
15 license but they were providing medical services to Medicaid  
16 participants. And we found again that we paid them around  
17 \$3 million over a year period.

18 So then we looked at the reverification process.  
19 And this is, again, looking at what they did within the  
20 fifth year where they needed to reverify. We found in a  
21 particular year 2019, 27,334 providers, of all the types  
22 I've mentioned, were reverified to provide services to  
23 Medicaid participants.

24 We pulled a sample of 191. And we found that 185  
25 of them, 96 percent, had not been properly reverified.

1 There were not background checks. There were not the  
2 credential checks that should have been done. We found that  
3 out of the 185 in our sample, 6 lacked licenses or had them  
4 suspended. Again, this is in addition to the other 18.  
5 They did not have licenses to perform the services that they  
6 were supposed to. And we paid them about \$11.2 million,  
7 those six.

8 We also found those 21 -- and these were nursing  
9 homes, adult daycare, we did not have the certifications and  
10 the accreditations that they were supposed to have to  
11 provide these services. We paid \$74 million in the course  
12 of a year. So we did an audit. We performed an audit back  
13 in 2014 and found a problem with the initial application  
14 process and the reverification process.

15 We sent findings to DHHS. They put in corrective  
16 action to take care of all the issues that I found in my  
17 first audit. I performed another audit in 2020. And this  
18 is what we found. The initial application process was  
19 working just fine. The reverification process done by a  
20 third-party vendor was broken.

21 And here is the simple fix that that could have  
22 been. I did an audit in 2014, many problems. The head of  
23 DHHS fixed those problems or so she thought. Internal  
24 audit, had they gone behind the fixes and tested them, they  
25 would have found all the things that I just found in this

1 latest audit that I did.

2 I want to talk a little bit about some of the  
3 things I heard Mr. Herman say. He talks about comparing  
4 improper payments across states. And just like  
5 unemployment, Medicaid, every state has its own plan. We  
6 all administer the program differently. But here's the  
7 deal. Even though we all administer the same program  
8 differently, we're all required to look at what are our  
9 risks and to assess those risks and then put in controls to  
10 take care of those risks.

11 So I think where Pennsylvania had this issue with  
12 their unemployment and you've got this big percentage  
13 sitting out there and Mr. Herman said, well, we can't say  
14 that's about process because everyone is different, you  
15 can't compare it to another state, yes, you can. Because if  
16 you've got three areas where improper payments could be  
17 happening and one stands out, what I would tell you is that  
18 piece of the process has some vulnerabilities that the  
19 controls have not been put in place to mitigate.

20 Just like in this situation, I had an application  
21 process, a reverification process. Both of them should be  
22 doing the same thing. The application process treated  
23 differently than the reverification, the same controls, the  
24 same methodology for the reverification was not happening at  
25 the initial. So if somebody had just tested that and looked

1 at that, the numbers are telling you where your risks are,  
2 where your root cause for your improper payments are, and  
3 then showing you where you need to go and look at the root  
4 cause and fix it.

5 The other thing Mr. Herman talked about was the  
6 PERM Report. That is dedicated strictly about Medicaid.  
7 And I would tell you that in the PERM Report for the state  
8 of North Carolina, we spend about \$2 billion through managed  
9 care organizations. We spend another six or eight through  
10 fee for service.

11 Well, in my PERM Report for North Carolina, they  
12 treat my payment to the managed care organization, which is  
13 a per member, per month, it's one fee depending on what your  
14 eligibility determination was, one fee. My error rate there  
15 was less than 1 percent. My fee for service error rate for  
16 improper payments was 8 percent.

17 They took all of the numbers and added them  
18 together and came up with an average. And now my improper  
19 payment rate was down to like 2.6 percent, which is way  
20 below the average across the nation. Well, they should be  
21 treating that payment per member, per month, to a managed  
22 care organization because it's like an insurance premium.  
23 It's the same thing over and over and over again. And, no,  
24 we're never going to get that wrong. So my error rate there  
25 was less than a percent.

1           But when I'm sending out payments to a hospital,  
2     in-home health care providers, dentists, physician  
3     assistants, and a nursing home, oh, my gosh. And I'm doing  
4     it for millions of people. We're processing 127 million  
5     fee-for-service payments a year through the state of North  
6     Carolina's DHHS.

7           So to average those numbers together, we can tell  
8     our General Assembly -- or they do -- that the error rate is  
9     2.6 percent. And I'm jumping up and down saying, no, no,  
10    no, no. Your fee-for-service error rate is 8 percent. We  
11    need to be looking at that and be doing something about  
12    that.

13          So I would say understanding what's in your PERM  
14    Report is critical because when they're averaging things you  
15    never had a problem with, it's all different than a  
16    fee-for-service and then average them together and say 2.6  
17    and what you're shooting for is 3, 3.5, now the numbers are  
18    all skewed. So then processes may be different. And they  
19    are from state to state to state, whether it's unemployment  
20    or Medicaid. But what controls do you have in place to  
21    mitigate your risk of improper payments? And if you've got  
22    three areas in your unemployment and one number stands out,  
23    somebody needs to be digging into what's the root cause and  
24    fix it.

25          That, Mr. Chairman, concludes my report. I'd be

1 glad to take questions.

2 REPRESENTATIVE DIAMOND: Thank you very much,  
3 Auditor Wood. I appreciate your candor in admonishing  
4 everyone to look a little bit deeper than just the big  
5 numbers themselves.

6 Let us move on now to Mr. Magee.

7 Mr. Magee, are you going to be speaking on behalf  
8 of both you and Mr. McDougall or do you each have something  
9 to give us here?

10 MR. CHRIS MAGEE: We each have something to give.  
11 I will start us off.

12 REPRESENTATIVE DIAMOND: Okay.

13 MR. CHRIS MAGEE: I'll start us off and then I'll  
14 toss it over to Brent.

15 REPRESENTATIVE DIAMOND: Thank you, Mr. Magee.  
16 Go ahead.

17 MR. CHRIS MAGEE: Good afternoon, members.

18 My name is Chris Magee and I am the Performance  
19 Audit Data Analytics Manager with the Louisiana Legislative  
20 Auditors Office. And with me today is Brent McDougall, who  
21 is our Senior Data Analyst.

22 In our roles, we use data to identify instances  
23 where, as Ms. Wood spoke about, the processes within  
24 Executive Branch agencies could be improved, really  
25 analyzing through the lens of data and then try to make

1 recommendations on how those agencies could improve those  
2 processes.

3 In many instances, we specifically look for  
4 program violations that may lead to potential improper  
5 payments. Today we will present an overview of our audit  
6 work related to improper payments and why we have focused on  
7 a few specific areas, namely the Medicaid Program and  
8 recently the Unemployment Insurance Program. We'll also  
9 discuss how we are able to conduct this work, some of our  
10 overall results, and go into some specific examples.

11 Generally, we have been focused on obtaining and  
12 using data to test entire populations of state program  
13 transactions to identify those potential improper payments  
14 and to make recommendations to enhance Executive Branch  
15 agencies' oversight of the programs they administer.

16 Again, it's focusing on looking at and testing  
17 entire populations instead of conducting a random sample and  
18 then go and target those high-risk transactions. Over the  
19 last four years, 15 data analytics audits have identified  
20 approximately \$558.5 million in potential improper payments.

21 We also made recommendations for programmatic  
22 changes to ensure more integrity in these programs, such as  
23 strengthening the use and reliability of their own agency  
24 data. We have focused on areas in state government that the  
25 LLA has identified as high risk, including, like I

1 mentioned, Medicaid eligibility, specific behavioral health  
2 providers within the Medicaid program, and then unemployment  
3 insurance.

4 So with Medicaid eligibility there was a  
5 significant increase in the cost of the program and the  
6 number of recipients in the program due to Medicaid  
7 expansion in our state. For example, the expenditures for  
8 the Medicaid program increased from more than \$12 billion in  
9 State Fiscal Year 2016 to more than \$17 billion in the next  
10 fiscal year, 2017.

11 And so as an auditor and as Ms. Wood stated, half  
12 of our State budget is the Medicaid Program. And that  
13 includes Federal and State dollars, but a large percentage  
14 of it is our State dollars being used for this. In the  
15 Medicaid eligibility area, we identified approximately \$79.2  
16 million in potential improper payments based on various  
17 eligibility issues.

18 The behavioral health providers, kind of like  
19 Medicaid providers in general, we really identified this  
20 provider group as the area of highest risk within the  
21 already risky Medicaid provider group. And so from 2012 to  
22 2016, the cost of the behavioral health program increased  
23 from \$213 million to \$445 million. So it more than doubled  
24 in a few years.

25 In addition, other groups and agencies who



1       oversee the Department of Health and the Behavioral Health  
2       Program were specifically identifying the behavioral health  
3       group is the highest risk group within the Medicaid program.  
4       So we took a deeper look into that and identified  
5       approximately \$60.7 million in potential improper payments  
6       in that area.

7               Recently, while there are still many dollars  
8       being spent through the Medicaid Program, the COVID-19  
9       pandemic and subsequent shutdown and lockdown and loss of  
10      jobs, of course, necessitated many people needing to get on  
11      the Unemployment Insurance Program.

12             In addition, the Federal Government expanded the  
13      benefits to not only allow different groups, such as gig  
14      workers, to receive those benefits, but also enhanced  
15      benefits on top of the regular State UI benefits.

16             So in Louisiana, total UI claims increased from  
17      just less than 17,000 on February 29th, 2020, to 366,000 on  
18      April 25th, 2020. Through our work we have identified  
19      approximately \$412 million in potential improper payments in  
20      this area throughout our audits.

21             We have been able to focus on using data to  
22      evaluate these areas in part due to the Louisiana's strong  
23      audit law, which is Louisiana revised Statute 24:513. Among  
24      other things, our audit law allows the LLA to have access to  
25      to state and local government agency data as long as it's

1 used for audit purposes. This allows us to use data from  
2 various state agencies to analyze the performance of one  
3 specific agency.

4 So we are using a lot of information at our  
5 disposal, sometimes information that those agencies don't  
6 have access to yet, to determine if that information could  
7 assist them in administering their programs and then make  
8 recommendations, if so, for them to obtain access to that  
9 data so they can run their program more efficiently.

10 In conjunction with our State law, we've also  
11 developed strong internal data governance policies and  
12 processes to make sure that the data we obtain we really do  
13 need, that we keep it secure, and we maintain and properly  
14 perform our audits.

15 So with that, I'm going to turn it over to Brent  
16 McDougall, who will go through some specific audit examples  
17 and themes of our work.

18 REPRESENTATIVE DIAMOND: Thank you, Mr. Magee.

19 Mr. McDougall, the floor is yours.

20 MR. BRENT McDOUGALL: Good afternoon.

21 As Chris said, my name is Brent McDougall. I am  
22 the Performance Audit Senior Data Analyst at the Legislative  
23 Auditors Office.

24 Just as Chris had mentioned before, we have  
25 focused on a few themes and topic areas throughout the last

1 few years. For example, there are a few data sets that the  
2 LLA currently receives on a regular basis and that we  
3 maintain internally which allow us to use them on many  
4 audits in assessing program eligibility.

5 We have used data regarding deaths,  
6 incarcerations, and wages earned and reported by employees  
7 to assess eligibility in both the Medicaid and the  
8 Unemployment Insurance Programs. Our audits have generally  
9 found that the agencies administering these programs could  
10 improve the existing processes to make more accurate and  
11 timely eligibility determinations.

12 For one example, the Department of Health,  
13 Louisiana Department of Health, historically used employee  
14 wage data on an annual basis to identify income that was not  
15 reported by Medicaid beneficiaries/recipients. However,  
16 this wage data is actually reported quarterly by employers.

17 So instead of looking at the data on an annual  
18 basis, we conducted our data analyses to determine if using  
19 quarterly wage data matches would prevent potential improper  
20 payments. We found that LDH may have paid at least \$61.6  
21 million in potential improper payments from July 2016  
22 through March 2018 to individuals who earned too much to  
23 qualify for Medicaid.

24 We recommended that LDH analyze the wage data  
25 quarterly rather than annually and the agency concurred with

1 us. As a result of running this more frequent data match,  
2 LDH removed from the Medicaid Program approximately 30,000  
3 individuals who do not qualify and saved approximately \$14.5  
4 million in one month alone.

5 We've also identified the behavioral health  
6 provider group as the riskiest provider type in the Medicaid  
7 program. Much like Chris had covered, the skyrocketing  
8 costs of this program, specifically those services allowed  
9 to be provided by unlicensed individuals, along with  
10 legislative interest in the program and the need for  
11 individuals to receive the services, led us to analyze this  
12 program in a very in-depth way through the use of data  
13 analytics.

14 Louisiana's Legislature passed two State laws to  
15 require, one, all behavioral health providers to obtain a  
16 national provider identification number and, two, to limit  
17 the number of hours that an individual provider can provide  
18 in one single day to 12 hours.

19 These laws were intended to bring more  
20 accountability to the programs by allowing the state to know  
21 who was specifically providing the services and for how long  
22 each individual was providing the services on a given day.

23 We tested the compliance with these laws after  
24 they went into effect and found that LDH was not requiring  
25 providers to follow these new laws and thus they were

1 allowing potential improper payments to be made.

2 We made recommendations to strengthen the  
3 agencies oversight processes and the agency implemented  
4 them, which has prevented additional improper payments from  
5 being made.

6 Based on our knowledge of the Behavioral Health  
7 Program that we gained through various reports, we also  
8 developed a behavioral health provider risk matrix to  
9 identify red flags associated with the billing practices of  
10 behavioral health providers.

11 Using this matrix that we developed, our office  
12 initiated multiple audits of specific providers in  
13 behavioral health that were identified by the risk matrix to  
14 determine, one, the validity of the risk matrix and, two,  
15 what was allowing the providers to bill in a manner that  
16 they were a higher risk and allow them to possibly receive  
17 improper payments.

18 We conducted these audits and found issues such  
19 as billing for services provided by deceased individuals,  
20 billing for services that were not actually provided, and  
21 billing for services that were improperly billed or coded.

22 In summation, our work is focused on using data  
23 to identify potential issues and improper payments in  
24 governmental programs. When these issues are identified, we  
25 make recommendations to the agencies on how they could

1 develop stronger policies and use data in a more  
2 comprehensive manner, achieve greater integrity in the  
3 programs they administer and ensuring data access, having  
4 the will and desire to make programmatic changes, and having  
5 the right people and systems in place to help achieve this  
6 goal.

7 So Appendix A of our written testimony that we  
8 provided summarizes the information and the data analytics  
9 unit reports that we've released over the last couple of  
10 years as well as links to the reports themselves and the  
11 amount of potential improper payments identified.

12 We thank you for your time. And we will be happy  
13 to answer any questions that you may have.

14 REPRESENTATIVE DIAMOND: All right.

15 Thank you, all, very, very much for your great  
16 testimony this afternoon.

17 We're going to go right to member questions here.  
18 And I will go to the member of this Committee who probably  
19 speaks audit language better than any of us, Representative  
20 Ryan.

21 REPRESENTATIVE RYAN: Mr. Chairman, thank you  
22 very much.

23 And to be honest with you, as a CPA, I would love  
24 to see if I could get continuing professional education for  
25 your seminar today. It was extraordinarily helpful.

1 State Auditor Wood, if I could start with you, if  
2 you don't mind, in the first question.

3 Inherent in your question is really the entire  
4 COSO standards of the system of internal controls and things  
5 of that nature, which implies that the agency had some  
6 degree of meaningful measures of effectiveness that you  
7 could then audit or did you find that that existed or did  
8 you find that you had to go in and almost reinvent the wheel  
9 to determine whether or not the appropriate measure of  
10 effectiveness was for that particular agency?

11 MS. BETH WOOD: In the first case, when we  
12 audited the first time in 2014, we had gone in and literally  
13 had to reinvent the wheel. But in the second case, we  
14 didn't test controls to make sure that they were effective.  
15 So in the first case we had to basically reinvent the wheel  
16 to show what kind of controls that they needed. Second  
17 place, they just didn't.

18 REPRESENTATIVE RYAN: And you had tremendous  
19 testimony, but I get the impression as well that you  
20 emphasize the importance of the internal audit function.  
21 Have you found that the agencies that you audited recognize  
22 the importance of internal audit and did your audit team  
23 help and assist in the building up of an internal audit  
24 capability?

25 MS. BETH WOOD: In North Carolina we're doing

1 just that. The year before I became State Auditor, the  
2 auditor ahead of me performed an audit on internal audit  
3 functions and how they don't exist in the state of North  
4 Carolina. A law was enacted and many, many agencies are  
5 required to have an internal audit, but they didn't do it  
6 well. So in the case of DHHS -- and again, as I said, they  
7 literally -- their internal audit team could have come in  
8 and audited the very controls they put in place but they did  
9 not.

10 I have been on a mission with our General  
11 Assembly right now to show how we have an internal audit  
12 function across State Government, across State agencies and  
13 universities. We have 182 internal auditors. We spend \$20  
14 million a year and we are getting squat for the effort.

15 And I have used DHHS as an example. I wouldn't  
16 have had to waste my time or my resources if their internal  
17 auditors had just tested what they put in place. I have  
18 done the same thing at DOT. I found two issues, major  
19 issues, that have required legislation. And I pointed out  
20 that if the internal audit function that that agency is now  
21 required to have and has had to have in place since 2008,  
22 had it been working like it was supposed to, again, I would  
23 have never come in and found anything. And in that case DOT  
24 ran out of cash, couldn't pay their vendors.

25 In North Carolina, I'm ashamed to say that



1 internal audit could have found it. So I am using my audits  
2 now to get the General Assembly to toughen our law and make  
3 it stronger, that the internal audit shops need to be  
4 functioning effectively, not just have one, but function  
5 effectively. So, yes, I've used this work to draft my  
6 point.

7 REPRESENTATIVE RYAN: And it was interesting.

8 And I'll have a later question for Louisiana,  
9 please, if you don't mind. But I do want to continue with  
10 Beth, if you don't mind. And this will be my last question.

11 When you look at the complexity of medical  
12 billing from the provider perspective, to what extent did  
13 you find the same concern about internal audit with the  
14 billing agencies, I'd say a health care facility, behavioral  
15 health, whatever it may be, that their staffs may not have  
16 been technically capable of dealing with the complexity of  
17 medical billing that might have added to the error rate?

18 MS. BETH WOOD: I don't think the medical billing  
19 is that difficult, frankly. You provide a service. There's  
20 a code. You put it in. And we have a very well-built  
21 Medicaid billing system. And so I don't think it's all that  
22 complex. I think the eligibility part of the participants  
23 themselves is much more complicated.

24 But once you get past that, it's the providers  
25 overbilling, upcoding, billing for services. Those are very

1 intentional acts. It's not a whole lot about improper  
2 coding.

3 REPRESENTATIVE RYAN: I love your approach.

4 Thank you very much.

5 MS. BETH WOOD: You're welcome.

6 REPRESENTATIVE RYAN: Mr. Chairman, those are the  
7 only questions I had for Beth.

8 Thank you.

9 REPRESENTATIVE RYAN: Thank you, Representative  
10 Ryan.

11 Auditor Wood, you briefly mentioned the PERM  
12 Report. We covered a little bit about a PERM Report with  
13 the previous testifier. I kind of saw a little reaction you  
14 had when I mentioned our 77 percent error rate here in  
15 Pennsylvania on Medicaid eligibility.

16 So can you just elucidate for the public and for  
17 the members, you know, what that report generally studies  
18 and what kind of information someone like yourself can glean  
19 from it?

20 MS. BETH WOOD: I don't hold a lot of stock in  
21 the PERM Report. We're supposed to be able to glean from it  
22 your percentage of ineligible participants in the program  
23 and improper payment rates. But as I said, I don't think  
24 they're going at ours in a way that they should because they  
25 are averaging two different things, two different items,

1 sets of controls that are going to be different. And so  
2 they should be treated separately and reported on separately  
3 so the users will know where the problems are.

4 When you take a point less than 1 percent and you  
5 take 8 percent and you average all the numbers and the  
6 people and everything that goes into it, it comes out with  
7 2.6, it's a misleading report.

8 REPRESENTATIVE DIAMOND: So, ma'am, if I could  
9 just interrupt you.

10 MS. BETH WOOD: Sure.

11 REPRESENTATIVE DIAMOND: Just to clarify what you  
12 were just talking about. That's when you were talking about  
13 the difference between MCO and fee for service, correct?

14 MS. BETH WOOD: That's right.

15 REPRESENTATIVE DIAMOND: Okay. Thank you.  
16 Go ahead.

17 MS. BETH WOOD: And then the other piece of it  
18 that is misleading is that they talk about your eligibility  
19 rate for the participants. Myself and the Louisiana State  
20 Auditor and the Mississippi State Auditor did a lot of work  
21 a couple years ago, eligibility determinations, and what we  
22 have found is that eligibility determinations are based on  
23 income of the participants and how many live in a household,  
24 how many dependents in a household.

25 However, the law prohibits us from looking at tax

1 returns at the state so that I can look to see if people who  
2 are filing a tax return, if that income on that tax return  
3 matches what's being filed with a local county Department of  
4 Social Services. Also, we all know that on a tax return you  
5 list your dependents and you have to put a social security  
6 number with them. When you tell the Department of Social  
7 Services at the county level how many dependents you have,  
8 you don't have to prove any of that with social security  
9 numbers or anything.

10 So again, the eligibility rates that have been  
11 reported in the PERM Report, in my opinion, are useless  
12 because nobody is looking at income, which is a major  
13 determination. There's no verification of income. Nobody  
14 is looking at income. We are not allowed to. And the  
15 number of dependents that you reported, there's no way to  
16 verify it. There's no way to tie it down to make sure that  
17 you didn't lie to DSS, Department of Social Services.

18 So again, I don't hold a lot of stock in the PERM  
19 Report. I don't use it. I don't believe in it. I think  
20 the information is useless for all the effort that goes into  
21 it.

22 REPRESENTATIVE DIAMOND: Thank you very much for  
23 that eyebrow-raising commentary on the PERM Report.

24 Let's go to Representative Lewis.

25 REPRESENTATIVE LEWIS: Thank you, Chairman.

1           And thank you, State Auditor Wood, for being with  
2           us and for the rest of you as well for taking the time to  
3           testify and provide insight here in Pennsylvania.

4           We had talked about your audit as well as just in  
5           general your efforts auditing and some of the  
6           recommendations you had made to your Legislature. I was  
7           wondering, can you expound on any findings you've made and  
8           provide some insight for us as lawmakers kind of what are  
9           your recommendations? What are some things that we could be  
10          looking into legislatively?

11          MS. BETH WOOD: Well, I'll tell you what I'm  
12          doing to try to help the General Assembly and we're starting  
13          to put this in place and really getting it going. And that  
14          is when I finish an audit report, I hand it back to the  
15          agency to refute my audits. They can't refute anything  
16          without giving me hard evidence of law.

17          So when they don't -- and I have the authority to  
18          do this -- they can't prove me wrong, then I require them to  
19          put in the report in their response what are they going to  
20          do to fix the problem, what date do they plan to have it  
21          fixed, and who is responsible for getting it fixed.

22          So now the General Assembly has put together a  
23          committee that will call agencies in front of them and say,  
24          the State Auditor told you to do this. Did you do it? And  
25          if you didn't, why not? Well, I'll be sitting right there

1 to know if they did or didn't.

2 The other thing is when I say that the Department  
3 of Transportation ran out of cash, they literally ran out of  
4 cash to pave our roads, \$6 billion. They ran out of cash.  
5 And so when I finished that report, DOT had a report done so  
6 you really couldn't understand the root cause of why they  
7 ran out of cash. And it all got back to lack of monitoring.  
8 They didn't have a good budget projection of what it's going  
9 to cost to build roads for next year. And then the 14  
10 highway divisions measure against that budget their actual  
11 spending.

12 And then there's a central office that should  
13 have been doing all that, overseeing 14, to make sure they  
14 are all coming together, spending against their budget and  
15 they didn't. So when I finished my report, I gave DOT a  
16 chance to refute it. Of course, they can't. I'm always  
17 right.

18 So the General Assembly put into law all the  
19 things that they should do based on my recommendations. And  
20 that was making your central office hold all 14 divisions  
21 accountable, making sure that they are tracking on a  
22 month-to-month basis budget versus actual, your projections  
23 of what you're going to spend next year based on actual  
24 projects done for the last ten years, and breaking up their  
25 budget in quarterly increments instead of the whole budget

1 for the whole year and just letting them go at it.

2 We made those types of recommendations and then  
3 you all put it in law. But I think the biggest help we have  
4 been to the General Assembly are my findings. Of course,  
5 they are, Madam Auditor. Fine. What are you going to do to  
6 fix it? When are you going to have it fixed? And who is  
7 going to be held responsible if it doesn't get fixed? So  
8 now the General Assembly doesn't have to send this up to the  
9 research staff all over to figure all that stuff out and try  
10 to figure out that probably nobody was put in charge of  
11 getting it fixed.

12 So I make the agency tell me who is going to be  
13 in charge of getting it fixed and by what date. That's one  
14 of the biggest helps to our General Assembly under the State  
15 Auditor for North Carolina.

16 REPRESENTATIVE LEWIS: Thank you so much.

17 That's so insightful. It sounds like there's  
18 this trifecta between you, the agency, and the General  
19 Assembly. And they must provide you a plan of action, a  
20 point of contact, and a date that they will rectify this by.  
21 And then the General Assembly is in the loop on this so  
22 those solutions can be tracked. That's phenomenal. Thank  
23 you for that insight. That's tremendously helpful. We'll  
24 be looking at that for Pennsylvania.

25 Thank you.

1 MS. BETH WOOD: Sure.

2 MR. CHRIS MAGEE: And this is Chris Magee with  
3 Louisiana. I just wanted to add to that, we have a similar  
4 process. We don't have the date that they specifically have  
5 to respond by. But we do give them the audit findings.  
6 They do have the chance to refute it or not. If they do  
7 refute it, of course, as we've been working with them  
8 throughout the process, we say, tell us why. Tell us how  
9 our analyses audit work is wrong.

10 And then ultimately that gets to be a part of the  
11 audit response and a part of the audit report, which does go  
12 to the Legislature. And often whenever our reports come up,  
13 they go before our Legislative Audit Advisory Council where  
14 they question us about the report but didn't question the  
15 agency about the report and asks, what are you doing to fix  
16 this? How are you going to fix it?

17 And our Audit Advisory Council is looking into  
18 their own tracking mechanism to try to figure out how these  
19 agencies are fixing the problems that we're identifying and  
20 the recommendations that we make.

21 And so then the last thing I would say is while  
22 we don't get a date of when they are going to implement the  
23 recommendation, we do still gather that information about  
24 who is the key person for this finding, who is supposed to  
25 be responsible for resolving the issue.



1           REPRESENTATIVE LEWIS: That makes sense. It's a  
2       very similar process, three-prong, between you, the agency,  
3       and the General Assembly. And in your case the difference  
4       is you just don't have that date. But it sounds like  
5       everything else you have. You have the point of contact,  
6       you have the plan of the agency, just not the date; is that  
7       correct?

8           MR. CHRIS MAGEE: Correct.

9           And we have established and are really starting  
10      for the first full time this year a follow-up process where  
11      X number of years after an audit is released, we go back to  
12      that agency, ask specifically about the recommendations that  
13      we made, did you implement them? Is the implementation in  
14      progress or did you not implement them? And then most  
15      importantly, why?

16           And so then based on those answers on whether it  
17      is being implemented or not, we then try to figure out  
18      should we do more audit work or does it appear that these  
19      issues are being resolved.

20           REPRESENTATIVE LEWIS: Tremendous. I love the  
21      accountability.

22           MS. BETH WOOD: Committee Member Lewis, I would  
23      -- if it's okay to make a statement.

24           REPRESENTATIVE LEWIS: Yes.

25           MS. BETH WOOD: When you go back on this

1 follow-up audit -- this is one of the reasons we put this in  
2 -- that date of when you plan to have it done by, when you  
3 go back, they say, always, well, General Assembly, you  
4 didn't give me the resources to go do this and so we just  
5 haven't done it yet. So we tried to upfront waylay that  
6 because resources or not, you're supposed to make sure these  
7 things are done. You go find the resources.

8 So by having that, what date do you plan to have  
9 this completed by, or, if they say, well, we have to figure  
10 it out, okay, what date do you plan to have this plan  
11 deliverable to the General Assembly? Having that date of  
12 accountability, as well as the person, is critical in making  
13 sure that when you go back two years from now or three years  
14 from now and they say, we didn't have the resources so we  
15 just didn't get it done, three years didn't go by without  
16 some action.

17 REPRESENTATIVE LEWIS: That makes sense.

18 So by having the date in there, you've got a time  
19 hack essentially where you can't come back years down the  
20 road and say, well, we didn't have the funding or we didn't  
21 have -- I gotcha. Fair enough. That's tremendous.

22 Thank you so much. Thank you, both.

23 REPRESENTATIVE DIAMOND: Let's go to  
24 Representative Ryan for a brief followup.

25 REPRESENTATIVE RYAN: Again, I want to thank all

1 three of you tremendously.

2 For members of the Pennsylvania Legislature, Act  
3 44 of 2017, which was my first bill, actually required -- we  
4 get e-mails once a quarter from the Auditor General --  
5 mandates that the Auditor General's recommendations must be  
6 followed and adhered to and responded to. And if they don't  
7 respond satisfactorily to the agreement of the Auditor  
8 General, the Appropriations Department or the House or the  
9 Senate can revoke the funding for that agency until the  
10 compliance is there.

11 And we have House Bill 117 for the Auditor  
12 General, fraud and forensic, which would give us more along  
13 the lines of the full capability that North Carolina and  
14 Louisiana both currently have.

15 REPRESENTATIVE DIAMOND: Thank you,  
16 Representative Ryan.

17 Let's go to Representative Wheeland.

18 REPRESENTATIVE WHEELAND: Thank you, Mr.  
19 Chairman.

20 Let's give North Carolina a break and we'll jump  
21 to Louisiana. Mr. Magee and Mr. McDougall, what was the  
22 methodology of your audit and what did you seek to  
23 accomplish?

24 MR. CHRIS MAGEE: Is there an auditing in  
25 particular that you're focusing on or just in general our

1 methodology?

2 REPRESENTATIVE WHEELAND: Well, just in general  
3 your methodology when you conduct an audit. Is there  
4 anything special about it or is there anything you focus on?

5 MR. CHRIS MAGEE: So we really tried to focus on  
6 the highest risk areas to the state kind of as a holistic  
7 office risk assessment we've identified as the riskiest area  
8 for our analytics unit to focus on.

9 And so as I mentioned, we've kind of moved from  
10 Medicaid eligibility to Medicaid providers. Now it's  
11 unemployment. But as a part of that and kind of the  
12 foundation for how and why we can quickly respond to these  
13 issues that arise in our state is kind of a data foundation  
14 that our office has laid and that Brent and I, in  
15 conjunction with many other people in our office, have kind  
16 of implemented and instilled in the culture over the last  
17 few years.

18 And so that's really trying to identify those  
19 data sets and be informative for multiple performance  
20 audits, financial audits, investigative audits, if our  
21 office needs to conduct that type of audit. And what we do  
22 is maintain those data sets and receive them frequently.  
23 Some of the examples are death data from our vital records,  
24 Medicaid data, food stamp data, driver's licenses, wage data  
25 that Mr. McDougall mentioned earlier.

1           We receive and maintain these data sets on a  
2 weekly, quarterly, annual basis and really have them ready  
3 to go when we need to quickly try to identify are there  
4 people earning too much who are still employed but are  
5 claiming unemployment benefits?

6           So months after the pandemic started, we were  
7 able to put our report that said, yes, there's people who  
8 appear to be making well in excess of what they should be  
9 able to qualify for the program.

10          So I would say, generally our methodology is just  
11 like any traditional performance audit. We try to conduct  
12 our background. We identified the criteria. And then we  
13 test that criteria. But the two ways that we kind of divert  
14 from just the traditional performance audit is, one, all of  
15 that data infrastructure that we had in place behind the  
16 scenes, but then, two, the methodology of testing entire  
17 populations and then look at the highest risk examples to  
18 try to figure out if your methodology works or if it didn't  
19 and you need to tweak that analysis.

20          So I hope that answered your question or at least  
21 in part.

22          REPRESENTATIVE WHEELAND: Yes, it did. Thank you  
23 very much.

24          Mr. McDougall, did you have any comment?

25          MR. BRENT McDOUGALL: I think Chris covered

1 everything.

2 REPRESENTATIVE WHEELAND: Okay. Very good.

3 Thank you, Mr. Chairman.

4 MAJORITY CHAIRMAN GROVE: Thank you.

5 I apologize. I had an election panel to discuss  
6 some stuff, so I'm back. I appreciate everyone's  
7 participation in this.

8 And next is Representative Keefer.

9 REPRESENTATIVE KEEFER: Thank you, Mr. Chairman.

10 Mr. McDougall, you had spoken about two laws that  
11 the Legislature in your state passed that brought more  
12 accountability to the programs. What was the actual result  
13 from that law or from those two laws? And what was the  
14 response from the agencies?

15 MR. BRENT McDOUGALL: Well, specifically there  
16 were two things that we looked at. One had to do with the  
17 agency making sure that every individual that was looking  
18 for services had an NPI number, which is a unique identifier  
19 assigned by CMS. The other was the number of hours that the  
20 person was able to bill in one day. Prior to the  
21 implementation of that law, there were no limits on the  
22 number of hours you could do in a day.

23 And so the recommendation that we made is  
24 essentially that our Department of Health needed to abide by  
25 each of these new laws. And in both cases they were

1 extremely willing to work with us. In fact, in both  
2 situations they kind of wanted to know what we were seeing  
3 in the process before we even provided our draft results.  
4 So they began implementing new controls as soon as possible.

5 And so with the implementation of the NPI law and  
6 our recommendations, I believe within six months they had  
7 cut it down to a few dozen providers that were still somehow  
8 getting through and billing without using an NPI number for  
9 an individual person. And then within the 12 hours, it has  
10 been a little more difficult for them to implement the  
11 controls on because of the ability of a provider to bill 12  
12 months from the date of service.

13 So actually they can really only go after one  
14 year, go back and see if they billed more than 12 hours in a  
15 day, because there's that ability to bill all within one  
16 year of the service being provided.

17 REPRESENTATIVE KEEFER: Okay.

18 MR. CHRIS MAGEE: Again, just to add to that, to  
19 tie it back to the question that someone had asked earlier  
20 about internal control and to tie it back to Ms. Wood's  
21 comments, the issue here is there was an issue identified by  
22 the agency, by the auditor, by the Legislature most  
23 importantly.

24 And so the Legislature creates these laws that  
25 need to be followed, but from an internal control

1 perspective by the agency, the agency wasn't making sure  
2 that these providers complied with the law. And then more  
3 importantly, the internal audit function here in Louisiana  
4 and some agencies aren't really even focused on doing that  
5 kind of work.

6 And so there was really this audit law put in  
7 place where no one was actually checking to see if anyone  
8 was following the law. And these laws are really designed  
9 to fix very significant problems in these programs to make  
10 sure the programs are being run properly. So it kind of  
11 ties all back in together to that internal control thing.

12 But like Brent mentioned, thankfully they were  
13 willing to fix the issue and they've implemented those  
14 controls now.

15 REPRESENTATIVE KEEFER: Okay.

16 And, Mr. Chairman, if I may.

17 Auditor General Wood, I have a question regarding  
18 the Federal Do Not Pay Program. I'm sure you're familiar  
19 with that. Could you tell us a little bit about it?

20 MS. BETH WOOD: I am not that familiar with it.  
21 That comes through our Treasurer's Office. So that's really  
22 not a part of what I do or a part of our function at all.  
23 The state of North Carolina can opt into the Do Not Pay.  
24 But again, that works more with the Treasurer's Office than  
25 it does the State Auditor's Office.



1           REPRESENTATIVE KEEFER: Do you know if your state  
2       opts into that? Pennsylvania does not.

3           MS. BETH WOOD: I'm not sure that we do either.

4           REPRESENTATIVE KEEFER: Okay. Thank you.

5           Thank you, Mr. Chairman.

6           MAJORITY CHAIRMAN GROVE: Mr. McDougall, I just  
7       want to follow up with the NPI. We actually had a grand  
8       jury report started under a previous Attorney General. It  
9       was released under our current Attorney General, Josh  
10      Shapiro. We worked with them on creating language to  
11      require -- and it was cited as one of the leading causes of  
12      provider fraud is lack of an NPI number to capture,  
13      particularly, I think it's home healthcare workers to make  
14      sure they're billing accurately.

15           When we drafted legislation with him, when we  
16      went to move it, our Department of Human Services said if we  
17      do an NPI or create a state SPI, we would actually lose  
18      Federal funds because of that process.

19           Are you aware of any Federal law that would not  
20      require the use of NPI or an SPI to ensure that we have  
21      program integrity?

22           MR. BRENT McDOUGALL: I'm not familiar with all  
23      the Federal requirements in the use of NPIs. However, the  
24      CMS NPI database is a free download that's updated monthly.  
25      And for certain Medicaid providers, CMS does require an NPI

1 number. What the new law here in Louisiana did is it took  
2 those unlicensed behavioral health providers for which the  
3 program did not require them to have a license and therefore  
4 they did not. They were not required to get an NPI number.  
5 It required that they get an NPI number by the way of  
6 requiring that the billing for the service needed to  
7 specifically identify the NPI, the individual providing the  
8 service.

9 There's no certifications or other types of  
10 education or requirements involved in just filing and  
11 obtaining an NPI number through CMS. And so I don't know  
12 what other regulations might be involved in that. But it  
13 was actually very -- it was something that seems easy to be  
14 done, to enact here in Louisiana that really helped to  
15 identify the individuals billing for these services and that  
16 were supposedly providing the services.

17 MAJORITY CHAIRMAN GROVE: Yes. We thought so,  
18 too, but apparently our Department of Human Services did not  
19 want to require that.

20 So thank you. I will follow up with them.

21 Representative Wheeland.

22 REPRESENTATIVE WHEELAND: Thank you, Mr.  
23 Chairman.

24 Under the topic of hindsight is always 20/20, I'm  
25 curious as to how are your audits received by the rest of

1 the state, the departments, the Executive Branch, the  
2 Legislative Branch? How are they received? What sort of  
3 comments and criticisms did you have at the outset and then  
4 what are they today? Just curious.

5 MS. BETH WOOD: One of the reasons that I -- one  
6 of the things that I wanted to accomplish as State Auditor  
7 when I worked here for ten years under two other State  
8 auditors, in our reports we fill out -- and the agencies'  
9 argument was just as sound as our findings. So in essence,  
10 the General Assembly and the Governor didn't really know  
11 which one was right. So it was one of the reasons for the  
12 irrefutable findings.

13 So we make sure that we sit down with the  
14 agencies that we are auditing and give them an opportunity  
15 to prove us wrong with evidence. In the beginning, the  
16 agency started out to argue, as they always have, with my  
17 findings. And then when I stood before the Committees at  
18 the General Assembly in North Carolina and told them, the  
19 legislators, I had given them several opportunities to prove  
20 me wrong and they can't.

21 And then the Legislators turned to the agency and  
22 say, you got that evidence? And they will say, well, no.  
23 So then I had agencies calling over here to ask my auditors,  
24 how do we get her not to do that to us?

25 So again, irrefutable findings. And now when a

1 Governor -- when the Governor appoints a new agency head, he  
2 sends them to see me because he knows I know where the dead  
3 bodies are. The General Assembly is passing laws based on  
4 the audit reports that I put out. And when I issue an audit  
5 report, they want me to come down to either a specific  
6 committee or Program Evaluation Committee and make a  
7 presentation on my findings.

8 So the answer to your question is, 100 percent  
9 support. And when you think about it -- and I give them an  
10 opportunity to prove me wrong and they can't -- there's  
11 really no argument to be had by anyone, nobody.

12 REPRESENTATIVE WHEELAND: Boy, I would have loved  
13 to have been in one of those meetings.

14 Mr. McDougall or Mr. Magee?

15 MR. CHRIS MAGEE: Yeah. I'll jump in.

16 We really try to work with the agency throughout  
17 the audit process to give them examples of what we're  
18 finding, give them -- we give them the entire population of  
19 everything that we find so they can go and research it  
20 themselves and, as Ms. Wood stated, try to find that  
21 evidence that shows what we're doing or what we're saying is  
22 incorrect.

23 Throughout the majority of our audit reports, the  
24 agencies actually agree with what we're saying. We work  
25 with them on things like tone. That's usually the things

1       like how we're saying it. But generally what we're finding  
2       and the issues at hand, they are agreeing with.

3               But that other level of kind of looking at it and  
4       making sure the results are right and how does the  
5       Legislature understand what we're doing, all of those  
6       hearing committees, we testify often about our audit reports  
7       either in front of our Audit Advisory Council or different  
8       committees that kind of oversee that topic. So we have many  
9       Medicaid subcommittees. Sometimes we will present our  
10      reports there.

11             But generally, our reports, the agency does agree  
12      and the Legislature is generally okay with. There are audit  
13      reports where maybe the agency agrees but certain  
14      Legislatures do not like or understand the work that we were  
15      doing. But we try to inform through the report and we try  
16      to inform through those hearings to give additional context,  
17      not going from our audit reports.

18             MS. BETH WOOD: Mr. Chairman, if I may step in  
19      here.

20             Chris brings up a good point. And it is about  
21      the tone. My staff gets excited or sometimes aggravated and  
22      they will be using -- you know, there are very sort of  
23      adjectives that sort of, you know, increase the  
24      aggressiveness or the tone of the report. And all of that  
25      comes out. It's flat. It's vanilla. It's just the facts.

1 But if I've got a COO of DOT who absolutely has  
2 reports in front of him and did not take advantage in order  
3 to stop the DOT from giving out cash, I will say it in very  
4 plain terms, and, again, no tone, no agitating adjectives to  
5 the report. And that's important. Very vanilla language  
6 but very firm about what we found.

7 REPRESENTATIVE WHEELAND: Thank you.

8 Any other comments on the past and what is  
9 currently happening? If I hear you folks correctly, it's  
10 getting better. It was tough in the beginning maybe.  
11 People not used to it. And now can you expound upon that?

12 MR. CHRIS MAGEE: Yeah. I think so.

13 People -- I mean, the way that auditing has  
14 progressed in terms of the use of data was, one,  
15 necessitated because there was so much data being gathered  
16 by agencies that auditors needed to begin to use it more.  
17 And so whenever we really started presenting the audit  
18 results that said we analyzed the entire Medicaid population  
19 and found tens of thousands of people who made more than the  
20 allowable amount to qualify for the program, the question  
21 that we would always get in the pushback was, well, that's a  
22 sample of 80 people or 100 people.

23 But as we try to educate the auditee, we try to  
24 let them know, look, our audit software is allowing us to  
25 analyze your billion Medicaid records to try to identify the

1 exceptions for the program rules, whether it's earning too  
2 much to qualify for the program, whether it's billing more  
3 than 12 hours in a day. We're looking at everything. And  
4 then we're looking at those highest risk ones.

5 So kind of the transformation and the progression  
6 of the approach from sample heavy to look at everything and  
7 then sample or choose a targeted selection of the highest  
8 risk ones was an approach which kind of took a little bit of  
9 time for the agencies to understand.

10 But I do think over time they are understanding  
11 that approach to our audits.

12 MS. BETH WOOD: And if I may comment on that  
13 also.

14 It is a lot better. Two things have made it  
15 better for North Carolina. One of them is I took office in  
16 2009. It was right after the 2007-2008 economic downturn  
17 and the state's first attempt at a budget. It was \$5  
18 billion short in revenues. So now everybody wants to know  
19 what the real numbers are.

20 And then secondly, I pissed off both sides of the  
21 aisle where I put out a report, irrefutable findings on DOT,  
22 which is one side of the aisle, one week and then I turned  
23 around and put out one on DPI, which is the other side of  
24 the aisle, the next week. Both of them irrefutable  
25 findings, both of them giving the General Assembly exactly

1 the information they need to make decisions about each of  
2 those agencies.

3 So over the years, I have built a reputation for  
4 never being wrong and not playing politics and not  
5 performing partisan work. So between the two -- and then  
6 given the economics of the state of North Carolina and the  
7 nation, every state auditor, both of those have sort of  
8 wanted everybody listening to -- it's not about politics  
9 anymore. It's not about opinion anymore.

10 What are the real numbers? Because we need the  
11 real numbers to be able to do our job, as the busiest  
12 decision-makers in North Carolina are legislators. They  
13 don't have time for lobbying and opinions and this and that.  
14 They need to get down to the facts quickly and irrefutable  
15 facts.

16 REPRESENTATIVE WHEELAND: Thank you so very much.  
17 That was quite pointed.

18 Thank you, Mr. Chairman.

19 MAJORITY CHAIRMAN GROVE: Thank you.

20 And lastly, I want to close by asking all of you  
21 if there's one thing you would like Pennsylvania to take  
22 away from your audits or even your experiences with improper  
23 payments in general, what would it be and why?

24 MS. BETH WOOD: As was followed up on what I said  
25 before, it's not only about the numbers. People can take



1 numbers and they can make any case they want to. Make sure  
2 you understand what's in the numbers. And your staff may  
3 need to dig down and figure it out. And then the other  
4 thing is when -- I don't care if it's Pennsylvania,  
5 Louisiana, North Carolina, and we're all, you know,  
6 administering unemployment or Medicaid. Yes, our processes  
7 are different. But we all should have internal controls in  
8 place that mitigate the risk of improper payments.

9 And, yes, you can compare yourself to North  
10 Carolina and Louisiana because while our processes are  
11 different, the objective is the same. And so if you've got  
12 numbers that are real different than North Carolina and  
13 Louisiana, then you need to look into that. It's not  
14 because our processes are different. It's because you've  
15 got a hole in yours.

16 That didn't come out right. I'm sorry.

17 MAJORITY CHAIRMAN GROVE: I get that.

18 Go ahead, Chris.

19 MR. CHRIS MAGEE: From my point, I would just  
20 piggyback right off of that and say similarly, people latch  
21 on to the numbers in our audit reports, especially since we  
22 can audit everything. We attempt to audit all the  
23 transactions by using various data sets.

24 In the end, while the number may be what grabs  
25 people's attention, the legislators' attention, the agency's

1 attention, it's really about trying to figure out, where did  
2 the breakdown in the process occur to allow this to happen?

3 And so that's the most important part of it.  
4 Once you identify an issue such as the ones that we identify  
5 in our audits, what caused it? And what could the agency do  
6 to fix it so that it doesn't happen again in the future?

7 So that's what we try to have as our biggest  
8 takeaways from our reports.

9 MS. BETH WOOD: If I may add.

10 So many agencies in trying to respond to my  
11 audits want to tell you why it happened. And I tell them,  
12 nobody cares. Nobody cares. All I want to know is, how are  
13 you going to fix it? What date are you going to have it  
14 fixed by? And who is going to fix it?

15 So we bring the reader back. We do a response to  
16 the response in our reports and say, the agency wants to  
17 tell you all these reasons. That's irrelevant.

18 When are they going to fix it? Bring the reader  
19 back to the point of the finding and how it's going to get  
20 fixed.

21 And so I would say, as a legislator, don't get  
22 all caught up in their excuses or their reasons for it  
23 happening. Hold their feet to the fire about how they're  
24 going to fix it.

25 MAJORITY CHAIRMAN GROVE: Will do.

1                   And we'll leave it at that.

2                   Thank you, all, for your time. We'll move on to  
3 our final panel.

4                   Thank you again. We appreciate all your hard  
5 work for your residents of your states.

6                   Thank you so much.

7                   We're going to be at ease for a few seconds as  
8 our last testifier needs to reboot their computer.  
9 Technology, it's great when it works.

10                  We're going to go to a short at ease.

11                  Thank you.

12                  (Hearing at ease.)

13                  MAJORITY CHAIRMAN GROVE: And we are back.

14                  Mr. Zogby, thank you so much for joining us.

15                  You know, technology, it works awesome when it  
16 works. And when it doesn't work, it becomes problematic.  
17 So we appreciate your time. We appreciate you hanging in  
18 there.

19                  I will turn it over to you for any opening  
20 comments.

21                  MR. CHARLES ZOGBY: Thank you, Mr. Chairman.

22                  I apologize for the little technical snafu. I've  
23 submitted a statement for the record but want to just take a  
24 few minutes to open with a few comments and then would be  
25 very pleased to take yours and the Committee's questions.

1           Thank you, Mr. Chairman, Representative Madden,  
2       members of the Committee. My name is Charles Zogby. I'm  
3       State Deputy Treasurer for Fiscal Operations and Policy.  
4       I'm very pleased to appear before you today to talk about  
5       the Treasury Department, both its role in our Commonwealth  
6       payment system as well as in preventing improper payments.

7           And I want to focus my comments today on two  
8       units within the Treasury Department, our Bureau of Fiscal  
9       Review first and then our Bureau of Unemployment  
10      Compensation disbursements. I want to talk about their  
11      functions and roles to the Committee's point here today,  
12      what we've been doing in terms of ensuring that every  
13      payment that goes out the door is, as we say, lawful and  
14      correct.

15           As I think members of the Committee know, one of  
16      the most important aspects of the Treasury's authority is  
17      our preaudit functions to ensure that all monetary  
18      disbursements from the Commonwealth are authorized, they're  
19      accurate, and they're compliant with applicable statutes,  
20      regulations, and management policies.

21           Section 1502 of the Fiscal Code establishes our  
22      preaudit authority. And the code requires that payment  
23      requests, which were formally called requisitions, are  
24      audited in accordance with generally accepted auditing  
25      standards. And the Treasurer is statutorily authorized to

1 approve payment, formally called issuing a warrant, only for  
2 those requests that, as I said before, appear to be lawful  
3 and correct. And if those payment requests are not lawful  
4 and correct, the Treasury rejects those and we send them  
5 back to the submitting agency who either revises, corrects,  
6 or cancels the payment or sends them back to us with the  
7 appropriate information.

8           The Bureau of Fiscal Review first off is  
9 primarily responsible -- the unit primarily responsible for  
10 the preaudit functions. And just to give the Committee a  
11 sense of the universe of what we're dealing with, for the  
12 last fiscal year that just closed, June 30th, 2021, the  
13 Bureau processed over 11.3 million payments with a total  
14 dollar value of roughly \$109 billion.

15           And from that, the Bureau spotted over 14,000  
16 erroneous payments that carry a dollar value of roughly \$1.1  
17 billion. In Treasury we use a fairly conservative  
18 definition when it comes to savings, dollars that we  
19 prevented going out the door either through overpayments or  
20 duplicate payments or payments to improper payees, about \$68  
21 million. And then the balance of that are payments that  
22 have had incorrect addresses or maybe a wrong appropriation  
23 or fiscal year marked to them. Those are considered errors,  
24 but they don't necessarily generate any savings.

25           I want to spend a minute, too, just to talk about

1 the process within Treasury. We process payments for over  
2 70 Commonwealth agencies, including the Legislature, the  
3 Governor's Office, a range of executive agencies, as well as  
4 independent agencies. Those payment files come to us every  
5 day.

6 Before they're entered into our accounting  
7 system, we go through those payments. We make sure that all  
8 the necessary information that should be accompanying those  
9 payments that allows us to review them and analyze them  
10 accompanies the payments. And if they are not there, then  
11 we send them back. Typically we route through the  
12 Governor's Budget Office's Office of Payable Services, who  
13 sends them back to the agencies. But unless all the  
14 information is there, they don't come into the Treasury  
15 system.

16 Assuming everything is there, they are then  
17 loaded into the Treasury accounting system for review. And  
18 the first step that we take in fiscal review is to provide a  
19 screening using data analytics software. The focus is on  
20 attempting to identify higher risk payments for audit. And  
21 the analytics do that based on a risk, a range of factors.

22 The first one is that payments above a certain  
23 dollar value are typically selected as well as first-time  
24 payments that are a result of new contracts. And then  
25 there's other risk factors that are used in the screen,

1 again, to pull out payments.

2 Just to give the Committee a sense of the kind of  
3 workload that fiscal review is doing, we talked about \$11.3  
4 million, over \$11.3 million in payments. Roughly on an  
5 annual basis we are auditing anywhere in between seven  
6 hundred fifty and eight hundred thousand dollar payments  
7 where we're doing what I would call kind of a deep dive.  
8 We're going through any and all documentation that connects  
9 to that payment, any supporting documentation, to ensure  
10 that the payment is legally correct.

11 Now, that may not sound like a lot, seven hundred  
12 fifty, eight hundred thousand out of 11.3 million, but it  
13 roughly encompasses about 90 percent of that \$109 billion  
14 worth of value that I talked about at the front end.

15 Once we go through that screen, we've got a set  
16 of payments that are either okay and then those move on to  
17 our Comptroller Operations Office within Treasury to go out  
18 for payment. Again, we're selecting payments every day for  
19 a deep-dive audit to make sure that, again, all the  
20 documentation supports that that payment is legal and  
21 correct.

22 Another note I just want to make, too, is that we  
23 do work very closely with the Governor's Budget Office,  
24 Brian Lyman and his team over in Comptroller Operations.  
25 And for the Committee's benefit, too, they are doing this

1 screen, they are doing the analysis on their end. So this  
2 really should act as a promo. We'd like to see fewer and  
3 fewer errors in terms of Treasury's review. But it really  
4 is a team effort from the agency, from the Governor's Budget  
5 Office, down through Treasury, again, to make sure that  
6 everything is there, that the payments are lawful and  
7 correct; otherwise, they don't go out the door.

8 I want to switch gears now to another unit within  
9 Treasury that's become very key to our work in making sure  
10 that improper payments are not made and, likewise, that we  
11 are doing our best in terms of preventing fraud involving  
12 Commonwealth dollars.

13 I think, as this Committee is well aware, the  
14 last couple of fiscal years or so, we've seen a dramatic  
15 effect that the pandemic had on unemployment compensation  
16 and particularly when it comes to unemployment compensation  
17 payments, as well as fraud in the program.

18 Just to give the Committee a sense of what we've  
19 looked at here in terms of Treasury and the impact on our  
20 operations, the year prior to the pandemic, Fiscal Year  
21 '18-'19, the Treasury Bureau, BUCD, as we call it, handled  
22 roughly 2.7 million payments during the fiscal year. That  
23 equates to roughly 228,000 payments per month that are  
24 processed.

25 And I should note, too, as I think we all know,



1 while fraud in the regular UC program was not unheard of,  
2 because of the employer-based verification process that's  
3 embedded in the program, fraud was relatively an isolated  
4 event. And I think, as we all know, the pandemic and what  
5 it brought on dramatically changed that.

6 So again, looking back at FY '19-'20, if you  
7 think that that's roughly about three months of the fiscal  
8 year, April, May, and June of that year, that the pandemic  
9 came down, the lockdowns, etc., BUCD went from, again,  
10 processing about 2.7 million payments a month -- or payments  
11 per year, 228,000 payments a month, to in Fiscal Year  
12 '19-'20 processing 18 million payments that year, roughly  
13 1.5 million payments per month. That's over six and a half  
14 times '18-'19 levels.

15 And then for fiscal year 2020-2021 where we  
16 really had for most of the year the effects of the pandemic,  
17 BUCD processed really an astounding 57 million payments, 4.8  
18 million payments a month. That's really pretty incredible  
19 when you step back and think about it. And again, sort of  
20 the normal, regular order process, that equates to roughly  
21 21 times the volume of payments per month that was seen  
22 before the pandemic.

23 Now, I want to point out when it comes to  
24 unemployment compensation benefits, Treasury doesn't have  
25 any role in reviewing eligibility determinations. Those

1 remain solely with the Department of Labor & Industry. But  
2 even though we're not involved in those decisions, it  
3 doesn't mean that we're not active in ensuring payments only  
4 go to lawful recipients and that we're not working full time  
5 to identify, prevent, and stop fraudulent activities.

6           Once L&I determines an individual is eligible for  
7 benefits, they send that new account information to  
8 Treasury. We in turn submit a set-up file with our partner  
9 currently at U.S. Bank. They handle sort of the back office  
10 functions with unemployment compensation. And they begin  
11 the process of creating a debit account for the recipient.  
12 Account Identity Verification screening to detect fraud is  
13 also triggered at this sort of set up new account stage.

14           U.S. Bank utilizes two identification screening  
15 methods in order to establish new accounts and identify  
16 possible fraud. So they're looking at an info match on the  
17 person, sort of basic ID, Social Security, and, again,  
18 public databases. Again, first name, last name,  
19 self-reported, state, city, date of birth, tax ID  
20 information.

21           If a new account is verified as authentic, the  
22 account is activated and Treasury may begin issuing  
23 payments. If an account is identified as a fraud risk, it's  
24 returned to the Department of Labor & Industry for  
25 additional verification steps prior to activation. And it's

1 important to note that the identification of the account as  
2 a fraud risk by either U.S. Bank or Treasury, it's not a  
3 benefit determination nor a final eligibility determination.  
4 Again, that's all housed at the Department of Labor &  
5 Industry.

6 I think we're all familiar, too, with a number of  
7 the newly created Federal unemployment compensation  
8 programs. I think of things like Pandemic Unemployment  
9 Assistance, the Federal Pandemic Unemployment Compensation  
10 Program. These programs, because they weren't tethered to  
11 employer histories, employer work histories and data, were  
12 ripe for fraud and, in fact, we saw a widespread fraud  
13 visited on the Unemployment Compensation Program throughout  
14 last year.

15 Treasury worked very diligently with our partners  
16 both at U.S. Bank and the Department of Labor & Industry.  
17 We reported back in April of 2021 of this year that together  
18 with L&I we halted nearly \$740 million in improper payments  
19 that were issued to fraudsters. And much of that really is  
20 owed to the thousands, tens of thousands, of honest  
21 Pennsylvanians who returned payments that they hadn't  
22 requested.

23 And we've also been very diligent in working with  
24 citizens to help them in any way that we can, both to  
25 understand the process and what they need to do if they see

1 fraud and then when they do see it, to report it to L&I and  
2 work to stop fraudulent activity both in the payments that  
3 are issued and the accounts that impact our citizens.

4 We're mindful, too, even though a number of the  
5 steps that L&I and Treasury took last year to halt the fraud  
6 that was occurring in the Federal programs, we've seen in  
7 the last many weeks a recurrence of fraudulent activities, a  
8 new level of fraud, that's been in play in the regular  
9 unemployment compensation programs.

10 And in response to that, we've been very  
11 aggressively advocating with Labor & Industry to implement  
12 ID.me. I know that's been talked about here a couple times  
13 this afternoon. We worked to implement that with respect to  
14 regular UC claims. I believe they began to move on that and  
15 will continue to in the weeks ahead.

16 We've also worked very closely with Labor &  
17 Industry to identify certain financial institutions that  
18 appear to be associated with suspicious or fraudulent direct  
19 deposit applications submitted via the L&I claims portal.  
20 So we've terminated applications. We've restored bank  
21 account information. And where appropriate, we've recalled  
22 or cancelled payments issued under fraudulent circumstances.  
23 And we've also reissued payments to legitimate claimants.

24 It's an ongoing effort. We realize that as long  
25 as these programs are going to be around, we're going to

1 have to deal with this activity. And so we continue to work  
2 with our partners inside and outside government to identify  
3 and stop fraudulent activity. This is a top priority of  
4 Treasurer Garritty. And it's a top priority of the team in  
5 Treasury. So we are focused day in and day out in our  
6 workday business. We're on this, as I said, with fiscal  
7 review as well to make sure that only those payments that  
8 are lawful and correct actually go out the door and are  
9 issued.

10 So with that, I really appreciate the opportunity  
11 to appear today before the Committee. And I'm certainly  
12 prepared to try to answer any questions that, Mr. Chairman,  
13 you and the Committee members may have.

14 MAJORITY CHAIRMAN GROVE: Thank you, Deputy State  
15 Treasurer Zogby. We really appreciate your time. And we  
16 completely understand the overwhelming nature of  
17 unemployment compensation and what Labor & Industry and  
18 Treasury has been dealing with for numerous months. We  
19 appreciate that hard work.

20 I know we've had kind of an offline discussion.  
21 But one of my greatest pet peeves with improper payments is  
22 the fact that agencies continuously make the same mistakes  
23 over and over again. If I pull up the PERM Audit for our  
24 Medicaid and CHIP programs year after year, it's the same  
25 errors being made time and time again. A lot of it is it's

1 not like the payments end up being incorrect, but they're  
2 not collecting the correct documentation, not following the  
3 law on the forefront.

4 So when Treasury looks at payments, time and time  
5 they kick back payments to State agencies. Are you seeing  
6 the similar errors that agencies are making time and time  
7 again? And do you try to work with the agencies to say,  
8 you're making the same errors, get it corrected? Because  
9 it's far cheaper on the front end to correct this stuff,  
10 right, than trying to collect it on the back end of it and  
11 spend the time.

12 MR. CHARLES ZOGBY: Sure.

13 MAJORITY CHAIRMAN GROVE: So how is your  
14 interaction with the agencies on trying to get them doing  
15 the right thing at the front end?

16 MR. CHARLES ZOGBY: Sure. That's a great  
17 question, Mr. Chairman. And the points that you made are  
18 spot on in that.

19 And I would say we do work very closely with the  
20 agencies. My team, it's a very seasoned team. We have a  
21 lot of people at Treasury who have been at Treasury for a  
22 number of years. They've been doing this. The Bureau  
23 Director of Fiscal Review came from the Budget Office and  
24 knows that side of the shop as well.

25 I would say one of the first things I did on

1 taking this position was to connect with the Director of  
2 Comptroller Operations, Brian Lyman, to establish that  
3 relationship. We work very closely with the Bureau of  
4 Payable Services. And we're not shy at all about reaching  
5 back to the Budget Office. They're our primary contact  
6 because they work with all the executive agencies.

7 And I should note too, as a former Budget  
8 Secretary, I have a little familiarity with the Budget  
9 Office. But we work very closely with them. So we do see  
10 patterns. If we do see things that are recurring in terms  
11 of inappropriate payments, improper payments, or just errors  
12 that are occurring, I would say we're very aggressive in  
13 going back to the GBO team to share with them what we are  
14 seeing and to ask for comment, to ask for input.

15 I think we have -- you know, we all have a shared  
16 responsibility to get it right. And I think, again, as I  
17 said in my comments, you know, the Budget Office doesn't  
18 like to see errors come to Treasury. Treasury doesn't like  
19 to see errors come this way. We know in a universe of 11  
20 plus million payments, they're going to occur. But to the  
21 extent that we can learn and make this a process where,  
22 again, we're learning from our mistakes. We're spotting  
23 things. We have a good dialogue, I think, with the  
24 agencies, with the Budget Office, to do that.

25 I would say, too, Mr. Chairman, one of the other

1 things that we're looking at, that the Treasurer is very  
2 interested in, is, you know, we send out a lot of payments  
3 by paper check. And I think we understand at Treasury that  
4 if we could do it, particularly with vendors and businesses,  
5 right, that do business with the Commonwealth, if we could  
6 do that through an ACH, through a bank transfer, as opposed  
7 to a paper check, it probably provides a higher level of  
8 security and will work to prevent improper payments and any  
9 fraud that folks may attempt to perpetrate.

10 So we really, in the last month or so, couple  
11 months, we've begun a push working with the Budget Office to  
12 see if we can't move more of our payment stream from paper  
13 checks to ACH. And we think if we can do that, with a  
14 number of other steps that we're looking at, that we can  
15 reduce the number of errors that are occurring.

16 So this is something that we're very attentive  
17 to. And I would say that we are working, corroborating all  
18 the time.

19 MAJORITY CHAIRMAN GROVE: Thank you.

20 Representative Madden.

21 REPRESENTATIVE MADDEN: Thank you, Mr. Chairman.

22 And thank you, Mr. Zogby, for your testimony  
23 today.

24 MR. CHARLES ZOGBY: You're welcome.

25 REPRESENTATIVE MADDEN: I have a question around



1 the recent hacks into the UC system and that people are able  
2 to create new bank accounts through U.S. Bank and the money  
3 is being redirected. Working with your partners at  
4 Unemployment and the National Unemployment Fraud Task Force,  
5 are you able to tell me exactly how long it takes to correct  
6 that? So if someone calls Unemployment and says, I didn't  
7 get my payment and someone says, well, you've been hacked,  
8 approximately how long is it before we get them back on  
9 track and the correct person is receiving those benefits?

10 MR. CHARLES ZOGBY: Representative, thank you for  
11 your question.

12 I really don't have a specific answer for you on  
13 that. I would say that we, you know -- well, our customer  
14 service teams, our managers, we are always directing  
15 individuals to submit any suspicion of fraud to Labor &  
16 Industry. I know the Department, it must seem that they are  
17 at least enormously overwhelmed at this point with the  
18 volume that they're dealing with. We try to do what we can  
19 as quickly as possible.

20 We have limited visibility into the L&I system.  
21 And again, Treasury is not making any eligibility  
22 determinations. So we do direct a lot of that focus back to  
23 our colleagues at Labor & Industry to handle. But we try to  
24 do what we can for the customer as we see them, to do what  
25 we can to help them when these situations do arise. We try

1 to do it as quickly as possible.

2 REPRESENTATIVE MADDEN: Okay.

3 MR. CHARLES ZOGBY: We know there's a sense of  
4 urgency for the recipient as well as the State to try to get  
5 our arms around this.

6 REPRESENTATIVE MADDEN: Thank you very much.

7 No more questions.

8 MAJORITY CHAIRMAN GROVE: Thank you.

9 Representative Diamond.

10 REPRESENTATIVE DIAMOND: Thank you, Mr. Chairman.

11 And thank you, Mr. Zogby, for joining us today.

12 In your testimony you mentioned that the Bureau  
13 of Fiscal Review receives payment files from more than 70  
14 agencies. Are there any agencies that do not send these  
15 payment files to Treasury and, if so, why?

16 MR. CHARLES ZOGBY: I'm not aware of any agencies  
17 under the Governor's jurisdiction that do not send payment  
18 files to us. I'm trying to find that list very quickly. I  
19 certainly would be happy to provide that to the Committee so  
20 that they can see the agencies that we are working with.

21 I just pulled it up quickly here. We're looking  
22 at the Auditor General, the Liquor Control Board, the  
23 Attorney General, just a slew of agencies. I'm seeing every  
24 department that would typically be under the Governor's  
25 jurisdiction. I see the House. I see the Senate, as well

1 as the Judiciary Supreme Court.

2 I haven't done a check against every Commonwealth  
3 agency, but it is a fairly exhaustive list. Again, I'm not  
4 aware of any major agencies that are not on the list for  
5 whom we're not receiving payments.

6 REPRESENTATIVE DIAMOND: All right. Thank you so  
7 much. If you do happen to find anything on that, please let  
8 us know.

9 Thank you, Mr. Chairman.

10 MAJORITY CHAIRMAN GROVE: Representative Ryan.

11 REPRESENTATIVE RYAN: Mr. Zogby, thank you for  
12 being here. And I have to tell you, I personally want to  
13 give a shoutout to Treasury. I've been working extensively  
14 with the Treasurer and your entire team, quite candidly,  
15 with the PSERS's issue. I truly value the relationship.  
16 You all have done a phenomenal job.

17 With the Bureau of Fiscal Review, there were  
18 14,000 erroneous payments. Was there a theme that you saw  
19 or that your department sees relative to process failures  
20 that lead to those types of problems that you identified  
21 that perhaps can be used to go back to, say, the Auditor  
22 General when they do the audit to provide input so that  
23 those agencies can then fix those processes?

24 MR. CHARLES ZOGBY: Yes. Again, any erroneous  
25 payment, Representative, that is spotted by Fiscal Review,

1 that's sort of pulled out of the stack, pulled out of the  
2 batch. We do send those back to the Governor's Budget  
3 Office, Office of Payable Services. Any information that is  
4 missing, we ask for that. If there's errors in terms of an  
5 address or a payee, we'll ask for that information as well.

6 And our team in Fiscal Review is very good in  
7 terms of, I'll say, regular basis. I don't know exactly the  
8 cycle, but we're constantly looking at that to see patterns.  
9 We're doing the same thing in terms of our data analytics.

10 It's not just a static process where the  
11 screening that's done -- again, the screening that's done is  
12 static, that we're not learning as we go. And so we're  
13 constantly looking for patterns, mistakes that are being  
14 made. And that's an ongoing dialogue that we have with  
15 Payable Services, with the Comptrollers Office. If we're  
16 spotting repetition in errors, repetition in mistakes that  
17 are being made, we work to correct those processes, to fix  
18 them so that they're not recurring.

19 REPRESENTATIVE RYAN: In your estimate, does the  
20 Auditor General when they do audits of other agencies ever  
21 come to Treasury to ask if there were payment processing  
22 problems that you've identified that might be valuable for  
23 the Auditor General to be able to make feedback to those  
24 agencies being audited?

25 MR. CHARLES ZOGBY: Representative, I would say

1 in my six months at Treasury, I haven't had that occur. I  
2 really don't know if that's something that we do regularly.  
3 I can check with my bureau team on that.

4 I do know that the Treasurer herself has a  
5 regular ongoing dialogue with the Auditor General. I would  
6 suspect that if there's any way that we could work in  
7 cooperation with the Auditor General, he and his team, I  
8 think that we're doing that.

9 I would just say that I don't have, for myself,  
10 speaking for myself, at least, enough experience in that  
11 area to know exactly where and how we may be syncing up, if  
12 it's occurring.

13 REPRESENTATIVE RYAN: The Treasury Department has  
14 some incredibly capable folks.

15 MR. CHARLES ZOGBY: Yes, sir.

16 REPRESENTATIVE RYAN: Again, I'm very thankful.

17 Do you have any potential looming retirement  
18 issues of staff that will come up to where in three to five  
19 years there may become an experience gap if we don't provide  
20 some additional help to Treasury to get you people necessary  
21 at this point?

22 MR. CHARLES ZOGBY: That's a great question,  
23 Representative.

24 I would say in the Bureau of Unemployment  
25 Compensation disbursements, we had an individual who is a

1 key part of our team. She was actually ready to retire back  
2 in early 2020. And the pandemic hit and she has been  
3 staying on throughout that time and has been indispensable  
4 to the operation. Our Bureau Director is a longtime State  
5 employee with over 30 years of service. I know he was ready  
6 to retire at some point this year, but we cajoled him into  
7 staying on. We have some tremendous institutional memory  
8 that we're going to be holding on to for the near term.

9 But certainly towards the end of this calendar  
10 year, moving into next year, we are going to see a couple of  
11 critical retirements now. I would say that in both of those  
12 cases, we had some extremely capable people behind them that  
13 I think are going to be able to fill those gaps though. I  
14 think, as you know, when you're dealing with people with 25,  
15 30 years' experience, even though you've got somebody with  
16 maybe 15 years' experience, right, they're still not as  
17 seasoned as the veteran.

18 But we have, I think, a deep bench. And I would  
19 also, too, be remiss if I didn't thank the General Assembly  
20 and the latest budget. You did give the Treasury Department  
21 some extra assistance in the budget after our budget was cut  
22 in prior years. And I know the Treasurer is focused on  
23 looking how to deploy those resources.

24 Some of those resources were for things like a  
25 new printer that we burned out in printing all those

1 unemployment compensation checks last year and this year.  
2 But some of it was for complement as well. And that will go  
3 to help ensure that we have not only a good leadership in  
4 place but a deep bench as well so when those retirements  
5 occur that we're able to backfill them in an appropriate  
6 way.

7 REPRESENTATIVE RYAN: And I'm going to combine  
8 kind of the last two questions into something hopefully  
9 fairly quick for you. And again, I do appreciate your  
10 candor.

11 Treasury thwarts substantial numbers of cyber  
12 attacks against yourself all the time. Is there any advice  
13 or guidance you can provide to the rest of the Commonwealth  
14 that might be of value since the number of cyber attacks and  
15 cyber theft, particularly in unemployment compensation, have  
16 increased significantly? And then the second part of the  
17 question is, what would be the type of thing that keeps you  
18 and the Treasurer awake saying this is a concern?

19 MR. CHARLES ZOGBY: Sure. Now, on the  
20 technology, Representative, I'm going to admit that I'm a  
21 self-styled techno peasant. I can start up my computer.  
22 I'm going to defer to our seasoned IT team that really  
23 knows. They've forgotten more than I know on this subject  
24 matter as to how we can prevent against that.

25 I would say that internally our IT team is very

1 focused on ensuring the integrity of our systems and always  
2 working against cyber attacks. I'm not just expert enough  
3 in that area to lend any sort of valued advice.

4 I think the one thing that really keeps me up is  
5 that, you know, I have seen no -- the tide has not receded  
6 in terms of the volume of unemployment compensation benefit  
7 payments that are being made. And that's going to continue  
8 through early September when the additional Federal benefits  
9 run out on -- I believe September 4th is the last day.

10 And I think until we, you know, continue to see  
11 lower levels of payments, I think the fraudsters out there  
12 -- you know, they never stop. They're going to continue to  
13 try to poke and probe and see where they can attack the  
14 system and get away with, you know, theft. And that's  
15 always a concern.

16 We obviously don't control those systems. Those  
17 systems are run by the Department of Labor & Industry. And  
18 everyone knows they've gone through the BenMod, as we call  
19 it, the Benefits Modification System. The new system coming  
20 online seems to have been tied with this new wave of fraud.  
21 So that's really the part that keeps me up every day and  
22 worry about, you know, we're only as good as the weakest  
23 link in the chain as it were.

24 And I think until we can really fully get our  
25 arms around the systems, which I know Labor & Industry, the



1 Secretary, the team over there that we talk to all the time,  
2 I know they're focused on that. But until we can really get  
3 a handle on it, I think we're going to continue to see some  
4 challenges there.

5 And if I might, too, Representative, I think you  
6 asked the question about the Auditor General. And I just  
7 wanted to extend my remarks to say that the Auditor General  
8 reviews all of the errors that we identify. And they also  
9 ask for significant internal control deficiencies.

10 So to your question, there is an active dialogue  
11 there. And we are working with the Auditor General, both on  
12 errors and in process weaknesses.

13 REPRESENTATIVE RYAN: Thank you so very much.

14 Mr. Chairman, that concludes my comments.

15 MAJORITY CHAIRMAN GROVE: Representative  
16 Wheeland.

17 REPRESENTATIVE WHEELAND: Thank you, Mr.  
18 Chairman.

19 Deputy Secretary, thank you for taking the time  
20 today. I'm sure you're busy. We do appreciate your time.

21 MR. CHARLES ZOGBY: Thank you.

22 REPRESENTATIVE WHEELAND: In your testimony you  
23 refer to data analysis analytics software.

24 MR. CHARLES ZOGBY: Yes, sir.

25 REPRESENTATIVE WHEELAND: That identifies high er

1 risk payments to be selected to audit. Can you be a little  
2 bit more specific as to what risk factors that software  
3 uses?

4 MR. CHARLES ZOGBY: Sure. We use a product from  
5 PeopleSoft. And again, I'm not a technology expert.

6 (No audio)

7 MAJORITY CHAIRMAN GROVE: You're back on. You  
8 literally just got done saying you're not an IT specialist  
9 and then you completely froze.

10 MR. CHARLES ZOGBY: Just proving my point, Mr.  
11 Chairman.

12 MAJORITY CHAIRMAN GROVE: Right.

13 And we all agree that your new money, some of it  
14 should go to IT.

15 MR. CHARLES ZOGBY: I apologize. I'm not quite  
16 sure what has occurred here with my computer. But in any  
17 case, I'm joined by my phone. And I'm happy to answer any  
18 other additional questions.

19 MAJORITY CHAIRMAN GROVE: Do you want to restate  
20 yours, Representative Wheeland, and we'll just go from  
21 there?

22 REPRESENTATIVE WHEELAND: Sure.

23 Welcome back.

24 MR. CHARLES ZOGBY: Thank you.

25 REPRESENTATIVE WHEELAND: How's that dialup

1 working up in Erie? No comment, huh?

2 MR. CHARLES ZOGBY: It's working well.

3 REPRESENTATIVE WHEELAND: Okay. To refresh your  
4 memory, in your testimony you referenced data analysis  
5 software.

6 MR. CHARLES ZOGBY: Yes, sir.

7 REPRESENTATIVE WHEELAND: And that identifies  
8 higher risk payments to be selected for audit. Can you be a  
9 little bit more specific as to what risk factors the  
10 software uses?

11 MR. CHARLES ZOGBY: Absolutely. It's a  
12 PeopleSoft product, Representative.

13 And again, I'm not a technology expert here. But  
14 essentially what it's doing is it's screening payments for  
15 various risk factors. So payments above a certain dollar  
16 value, for instance, are pulled from the pile and those are  
17 analyzed.

18 First-time payments that are a result of any new  
19 contracts from Commonwealth agencies, any Commonwealth  
20 agencies, those are pulled out of the pile and identified  
21 for a deeper dive.

22 There's another set of risk factors that are  
23 embedded in the software. I'd have to go back to my team to  
24 understand those better. And, of course, being in a public  
25 forum here, we don't really want to telegraph exactly what

1 we're looking at, again, so that we have that anonymity, if  
2 you will, in the analysis.

3 I wanted to point out, you'll note in my  
4 testimony I said that we're looking at anywhere from 750,000  
5 to 800,000 payments a year. But the total dollar value of  
6 those payments roughly represents about 90 percent of that  
7 \$109 billion that I talked about at the outset, 11.3 million  
8 payments plus that are processed every year worth over 109  
9 billion.

10 So if you think that -- you know, if you reflect  
11 on that, thinking that about 800,000 of those representing  
12 roughly 90, 91 percent of the total payments, we're really  
13 trying to cover the entire beach hat, if you will, in terms  
14 of the payments that are selected through the analytics  
15 screening process.

16 REPRESENTATIVE WHEELAND: Thank you very much.

17 Thank you, Mr. Chairman.

18 MAJORITY CHAIRMAN GROVE: Thank you.

19 Representative Keefer.

20 REPRESENTATIVE KEEFER: Thank you, Mr. Chairman.

21 Mr. Zogby, could you talk to us or tell us a  
22 little bit, an overview, about the Federal Do Not Pay  
23 Program, what is it, how it works?

24 MR. CHARLES ZOGBY: I am not expert in that,  
25 Representative. My understanding is that a lot of that has

1 to do with checks against various Federal databases. I  
2 would say that my -- I had some dealing with that proposal  
3 back in my Budget Office days. And as I understood it at  
4 the time, a lot of the Federal Do Not Pay was sort of one  
5 way. The Federal Government got a lot out of the states.  
6 I'm not sure the states got a ton from the Federal  
7 Government in return.

8 But having said that, it's been some time since  
9 I've been current with that and looked at it. I would say  
10 from a Treasury perspective, because we're sort of the last  
11 stop in the process of vis-à-vis the payments, that to the  
12 extent that Do Not Pay would be applied, it probably is  
13 better done in the Executive Branch with the various  
14 departments and the Governor's Budget Office. That's really  
15 where the screening for that should occur to make sure that  
16 inappropriate, improper payments are not coming to the  
17 Treasury for payment.

18 Again, we work very closely with our colleagues  
19 there. But any screen that would be done through Federal Do  
20 Not Pay is probably best effectuated at the agency or the  
21 GBO level as opposed to Treasury.

22 REPRESENTATIVE KEEFER: All right. I've been  
23 digging around and trying to better understand that and see  
24 why we don't participate in it. The direction I was being  
25 led was that it was a Treasury decision to participate in

1 the program or not.

2 Our Government Oversight Committee put out a  
3 report on Medicaid provider fraud and improper payments. In  
4 the report with regard to the Federal Do Not Pay Program, it  
5 says, in discussing the Federal program with Pennsylvania  
6 Treasury, we were informed that Treasury does not currently  
7 actively participate in the program.

8 So I just thought maybe that was a Treasury  
9 decision and, if so, just trying to better understand why.

10 MR. CHARLES ZOGBY: Again, Representative, I'm  
11 not expert on that. I'm not aware of our application of Do  
12 Not Pay right now. Again, I think to the extent that the  
13 Commonwealth deems it an appropriate service to enter into  
14 with the Federal Government, it's probably best done in the  
15 Executive Branch given that our agencies are generating all  
16 the payments.

17 Again, we're kind of the last line of defense, as  
18 it were. But if we could stop those payments before they  
19 ever come to us through any sort of screening, including Do  
20 Not Pay, it's probably better placed there than with the  
21 Treasury Department.

22 REPRESENTATIVE KEEFER: Okay. And then another  
23 program is the BAM Program, the Benefit Accuracy Measurement  
24 Program. Is this a program that Pennsylvania participates  
25 in? Are you familiar with this one?

1           MR. CHARLES ZOGBY: I'm not aware of that  
2           program, Representative. I'd certainly welcome information  
3           on it and anything that would allow our Treasury team to  
4           assess, whether it's something that would be appropriate for  
5           us to take on.

6           REPRESENTATIVE KEEFER: Okay. Thank you very  
7           much.

8           Thank you, Mr. Chairman.

9           MAJORITY CHAIRMAN GROVE: Thank you.

10          That wraps it up. Thank you for your time.

11          We greatly appreciate all the testifiers and  
12          appreciate the technical difficulties calling in but we  
13          worked through it. Surprisingly out of all the hearings the  
14          State Government Committee has had, that was the first time  
15          we've had a bit of a snafu on the technical end.

16          Thank you for your time, Mr. Zogby. We really  
17          appreciate it.

18          MR. CHARLES ZOGBY: Thank you, Mr. Chairman.

19          MAJORITY CHAIRMAN GROVE: Thank you.

20          The hearing is adjourned.

21          Thank you.

22          (Whereupon, the hearing concluded.)  
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I hereby certify that the proceedings and  
evidence are contained fully and accurately in the notes  
taken by me on the within proceedings and that this is a  
correct transcript of the same.

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Jean M. Davis  
Notary Public