



**Testimony of Secretary Jennifer Berrier  
Department of Labor & Industry (L&I)  
Before House Labor & Industry Committee  
September 14, 2021**

Good morning, Chairman Cox, Chairman Mullery, and members of the House Labor & Industry Committee. Thank you for the opportunity to speak with you today to share some updates on the new unemployment system, fraud, and updates on the overpayment interest issue. I am joined this morning by Acting Deputy Secretary for Unemployment Compensation Susan Dickinson.

**Ben Mod Updates**

Since our last update to this committee on June 23, significant progress has been made towards stabilizing the new UC System. To date, almost 500,000 claimants have received over \$2,746,975,531.31 in benefits. As is typical with any large-scale modernization project, we experienced some initial issues with data conversion. Some of these errors prevented a smaller group of claimants from being able to file successfully for benefits. However, the vast majority of system errors were addressed within the first several weeks of the launch. Our Benefits Modernization (Ben-Mod) core team continues to diligently work with the system vendor, Geographic Solutions, Inc. (GSI), to address outstanding issues and stands ready to respond to any issues that may arise. This is a win for claimants, employers, our UC staff, and Pennsylvania. We continue to appreciate the efforts of your legislative offices to help eligible claimants access the benefits for which they are entitled.

As we have discussed with this committee before, there were many strategic reasons why we were ready to “go-live” on June 8 with the new UC system. A steady decline in weekly new claims, the completed implementation of federal pandemic programs reauthorized by the American Rescue Plan (ARP) Act, the timing of June 8 arriving prior to the next quarter change (which is a high-claims-volume time of year for UC), and the new system’s more streamlined business processes that would allow L&I to process backlogs more quickly all gave us reason to bring the commonwealth’s UC system into the 21<sup>st</sup> century.

Additionally, the ability for states like Pennsylvania to retain contractors as permitted by the federal government until September of this year allowed L&I to continue to provide higher levels of customer service while staff adjusted to the new UC system. Federal waivers for L&I to use outside contractors expired on September 4, alongside federal pandemic unemployment programs such as Pandemic Unemployment Assistance (PUA) and Pandemic Emergency Unemployment Compensation (PEUC). The contractors – a total of 1,366 coming from both private and public entities – primarily

have three functions: answering phone calls, responding to emails, and assisting with fraud prevention efforts.

Attrition has already begun as contract staff begin to look for stable, full-time work. Following the expiration of the aforementioned federal waivers, L&I lost 176 PHEAA, 196 Maximus, and 243 InspiriTec contractors for a total external staff support reduction of 615. We will retain the 70 Maximus contractors who staff the fraud hot-line and the 681 InspiriTec contractors who work on the customer service ticketing initiative, in either a full-time or part-time capacity, as they are engaged in non-merit staff work beyond the scope of the federal waivers. Nevertheless, our ability to retain this contract staff is dependent on additional funding from the federal government and/or the General Assembly.

With PHEAA, Maximus, and InspiriTec contractors complementing our service center employees, significant progress has been made since “go-live” in addressing outstanding customer service concerns. Our customer service initiative has led to over 980,000 calls answered from March 2021 through August 2021, an increase of 38.2% compared to that time last year. While it’s simply not possible for every single claimant to reach a UC service center employee immediately each time they call, the average wait time on the phones has dropped from 37 minutes in mid-June of 2021 to 22 minutes in mid-August and the average wait time dropped to below 20 minutes by September. Additionally, although only 1 in 40 callers were able to get through to UC Service Centers on their first try following “go-live,” that number had improved by the beginning of September – currently standing at 1 in every 2 callers. We continue to make improvements to try and ensure that every Pennsylvanian is able to speak to a UC representative when they call.

Since the launch of the new system, our full-time UC staff have been committed to familiarizing themselves with the new system and maximizing efficiencies. For example, prior to going live with the new system, UC examiners, on average, completed about 8,000 to 9,000 adjudications per week and the backlog of adjudications between PUA and traditional UC was over 325,000. Following the launch of the new system, staff now routinely completes over 20,000 adjudications per week. Between more than doubling staff output and additional system functionality, the backlog of adjudications has dropped to less than 121,000 in less than three months and will continue to decrease significantly over the next few weeks and months.

### **UC Fraud Updates**

While many of our customer service initiatives have shown significant progress, as you and your staff are undoubtedly aware, Pennsylvania’s UC system has been beleaguered by unprecedented fraudulent activity following the launch of our new system. It is widely known that unemployment insurance systems in every state around the country have been under extraordinary strain because of sophisticated fraud activity from international crime syndicates, especially after the launch of the federal PUA program last year. L&I was able to put a significant dent in deterring fraudsters’ activities

in the PUA system by implementing an identity verification tool through ID.me for initial and continuing PUA claims. Because the launch was a massive undertaking, and Pennsylvania was the second largest state to modernize its UC system, the project gained widespread attention and attracted fraudsters from around the globe. L&I had to make operational sacrifices as we temporarily shifted some staff resources to combat fraud instead of processing additional claims for deserving Pennsylvanians.

The data we have on fraud speaks for itself. Since June 8, L&I identified nearly 300,000 initial claims as fraudulent. This accounts for just over 75% of all new claims filed since June 8. Backend fraud prevention measures in the new UC system flagged these claims and payments were identified and prevented in most cases. These measures were able to prevent more than \$5 billion from being distributed to fraudsters and crime syndicates – the amount that would have been disbursed had these claims been fully paid out over the maximum 26-week length of a typical claim. Although most of these claims were flagged internally and payments were prevented, this unfortunately did not stop Pennsylvanians from being inundated with notices of unemployment claims filed against their business or their identity.

As soon as we stabilized the new system post-launch, L&I worked with ID.me to swiftly implement an identity verification check to curb the fraudulent activity within the new UC system. On July 16, L&I implemented ID.me for initial applications for UC and immediately experienced an 80% decrease in initial claims filed. The following week, on July 23, L&I implemented ID.me for all continuing claims dating back to March 1, 2021 to ensure that any continued claims filed are legitimate. The week after, on July 31, L&I implemented ID.me for all claims where an individual attempts to make changes to their Keystone ID. This has led to a rapid decrease in initial claims filed, a marked reduction in physical mail sent, and a stark decline in Keystone ID changes. These data points suggest that new fraudsters are being prevented from accessing the system, and current fraudsters were stymied if they had access to the system.

The Department believes that the implementation of ID.me has halted most fraudsters in their tracks. However, there are hundreds of thousands of innocent Pennsylvanians and businesses who had fraudulent unemployment claims filed in their name or against their businesses that are understandably anxious about next steps as they do not want their personal finances affected, or additional UC charges levied against their businesses. I want to assure Pennsylvanians and business owners alike that L&I is working diligently to address all fraudulent claims. Businesses will only be charged for legitimate unemployment claims filed against them. Any fraudulent claims will be denied, and charges adjusted.

To that end, L&I recently nearly doubled fraud prevention staff to better address the increased levels of fraud – around 75,000 work items since June 8 – in a timely manner. Individuals who want to report potential fraud should do so online. Additionally, they can contact L&I staff using the fraud hotline at 1-800-692-7469. Our fraud prevention employees are bolstered by 70 contractors who work the fraud line. This line typically does not have a busy signal and can take voicemails 24/7 if called during non-business

hours. Any outstanding voicemails are usually returned within the week. This fraud hotline can be used by individuals who wish to file a fraud report over the phone, or who have already filed a fraud report and would like to speak to a staff member about their situation.

I also want to be very clear that fraudsters were primarily successful in their efforts because of the national data breach issue in which individuals' identities were stolen from cyber hacks against major entities in years past. News of these massive identity theft schemes is now commonplace. While L&I's systems were never compromised, fraudsters exploited the troves of personally identifiable information of unsuspecting Americans that is available for purchase on the dark web. The US Department of Labor has recognized that this is a pervasive national problem, not something that is unique in Pennsylvania. To that end, USDOL has distributed two rounds of additional grant money nationwide for states to implement fraud fighting measures in UI IT systems. A third round of grant funding is currently in progress.

L&I staff will not rest until every fraudulent claim in the UC system is addressed and benefits are paid to every eligible individual. To that end, we look forward to further collaboration with our partners in the Offices of the Attorney General, State Treasurer, and Auditor General, in addition to the Federal Bureau of Investigation (FBI) and the Office of Inspector General of the US Department of Labor, in bringing these fraudsters to justice. To further explain collaborative efforts between our agencies, L&I hosted an informational event with the Offices of the Attorney General, State Treasurer, and Auditor General on September 10 for members of the House and Senate Labor Committees.

### **Interest Rate Overpayments**

As this Committee is aware, incorrect interest rates were charged on UC fault overpayments to claimants from 2006 to 2016. For context, fault overpayments, or fraud overpayments, happen when an individual intentionally withholds or provides incorrect information about a claim and receives UC benefits for which they are not eligible. These individuals are required to repay their fault overpayment, as well as interest, if the fault overpayment principal is not paid within 15 days after notice is issued by UC. The overcharges occurred because L&I's legacy UC system had set a standard 9% interest rate on these overpayments, instead of the fluctuating rate determined by the Department of Revenue on a yearly basis. Below, I outline the proactive steps we have taken as an agency to take corrective action.

In 2016, L&I officials discovered this issue and took immediate steps to charge the correct interest rate on fraud overpayments moving forward. Individuals who contacted L&I to repay liens had their interest payments manually reduced by staff starting in December 2016 to ensure that no further interest overcharges occurred. Following the discovery of this issue, L&I staff, in conjunction with the state's Office of Information Technology (OIT), began the complex process of working to retroactively repay all the fraudulent claimants who were overcharged interest.

The difficulty of this task was compounded by system limitations from the 40+ year old UC Legacy Mainframe system. Claimants affected by the increased interest rate were sorted into two main buckets: individuals who still owed fault overpayment interest to L&I and those who had fully repaid their fault overpayment interest. The first bucket of claimants would not receive a refund, but rather would have the interest from the range of affected years reduced until the outstanding fault overpayment amount was corrected. The second bucket of claimants would be contacted and refunded the amount of overpaid interest they were charged and that they paid.

As L&I staff worked toward a plan to repay these claimants, an Office of Inspector General (OIG) investigation took place regarding this issue in 2017 and findings were delivered to Acting L&I Secretary Bob O'Brien, who was also Acting Deputy Secretary for Unemployment Compensation Programs at the time. Then, Acting Secretary O'Brien responded in writing to the OIG report.

From the beginning when this matter was discovered, L&I officials have worked to correct the issue. There were dozens of meetings between different offices – including the Office of General Counsel, Department of Revenue, and OIT to work toward resolving this issue. Let me be very clear. There was no attempt by this agency to obfuscate or hide from our responsibility to pay back individuals what they were owed, despite some incorrect allegations.

Prior to the COVID-19 pandemic, work to address the overcharged interest was progressing. In March 2020, OIT and L&I staff had identified the entire universe of claimants who were affected and were weeks away from being able to start coding programs to pay refunds to affected claimants. In addition to the progress on the bucket of claimants who were owed refunds, there was significant progress in addressing the other bucket of claimants who still owed outstanding overpayments to L&I but needed to have their overall amount of interest they owed reduced. By March 2020, approximately one-third of the claimants who had interest rate reductions were addressed and their outstanding payments reduced accordingly.

However, in March 2020, precious UC staff resources were redirected away from all other issues including the interest overpayment project, to address the onslaught of unemployment claims caused by the pandemic, and unexpectedly build and implement several new federal unemployment relief programs. The completion of work in successfully implementing the federal unemployment programs and dwindling UC claims recently allowed L&I to resume work on the refund project.

Our IT staff has completed work to build out a new system to refund claimants who are due overpaid interest. We originally targeted September 3 for the system to go live. However, as you are aware, letters informing claimants they were owed a refund were inadvertently sent out several days earlier than originally scheduled. A temporary placeholder message was implemented on Sunday August 29 informing individuals to check back later in the week to access their refunds. To lessen any confusion around

when the site would be available, we moved up the timeline and successfully launched the site at approximately 11:30 am Monday, August 30. Individuals were then able to access the website and claim their refund. Since the new system for refunds launched, 28,113 individuals have claimed approximately \$2,911,868.35 in refunds.

Overall, between the two buckets of affected claimants, approximately 250,000 individuals with fault overpayments were affected by the interest overcharge. In building out the new system to refund claimants OIT was able to capture additional data and we now know just over 109,000 claimants will be issued approximately \$19 million in refunds. Of the 109,000 claimants who will receive a refund, 52% are owed less than \$50, and 91% are owed less than \$500. Just .05% of claimants are owed a refund in excess of \$5,000. The remaining claimants will have their outstanding interest payments adjusted to reflect the actual amount of outstanding money they owed to the Department.

When I became aware of this issue, I immediately directed staff to redouble efforts to repay individuals affected by this interest rate overcharge. The L&I and OIT teams are working diligently to reimburse and readjust outstanding interest payments.

Thank you for the opportunity this morning to share these updates about the new UC system, the efforts L&I has undertaken in conjunction with our partners to deal with unemployment fraud, as well as the Department's work to address the overpayment interest issue. We look forward to answering your questions at this time.