



**Testimony of Secretary Jennifer Berrier
Department of Labor & Industry (L&I)
Before House Labor & Industry Committee
February 10, 2022**

Good morning, Chairman Cox, Chairman Mullery, and members of the House Labor & Industry Committee. Thank you for the opportunity to speak with you today and to share some updates on the final recommendations of the BenMod Advisory Committee, the performance of the Unemployment Compensation (UC) system, and the department's response to fraud. I am joined this morning by Deputy Secretary for Unemployment Compensation Susan Dickinson and Chief Information Officer (CIO) of the Commonwealth John MacMillan.

BenMod Advisory Committee Recommendations

First, I would like to acknowledge and thank the members of the BenMod Advisory Committee for their work over the past several years to help shepherd the launch of the modernized UC system. The Department of Labor & Industry (L&I) appreciates the involvement of the committee and the feedback it has provided for this critical project.

The BenMod Advisory Committee recently submitted its final report, in which it made recommendations, raised some concerns, and noted system functionality issues pertaining to reissues and refunds and the issuance of 1099G tax forms. I can report that L&I already has resolved all system concerns around reissuing and refunding payments. We also are working with our UC system vendor, Geographic Solutions (GSI), to improve the system so that L&I can redeposit all types of payments without intervention from GSI. By streamlining this process, claimants will receive their payments faster. Regarding the Advisory Committee's concerns about 1099G tax forms, those forms were mailed successfully to UC claimants and are also available online on their personal dashboards.

The Advisory Committee also raised concerns about combined billing notices for fault and non-fault overpayments and noted that claimants are limited in which appeals they can file online in their portal. On the billing notices issue, UC program staff and legal counsel are working together to revise the language of these forms to make them more readable. L&I is aware that claimants and employers currently are not able to file appeals on inactive claims. We are working on this issue with our vendor so that claimants and employers will be able to appeal inactive claims online.

The Advisory Committee also recommended that L&I 1) integrate the UC system with PA CareerLink, 2) provide access for claimant representatives in the UC system, 3) ensure that claimants and employers are given a fair opportunity to be heard during

investigations and receive sufficient notice of issues involved, and 4) issue communication about in-person identity verification options.

Integration of the UC system with PA CareerLink® remains a long-term consideration for L&I and is something we will explore in more depth once Ben Mod system optimizations are completed and customer service levels have stabilized. Integrating these two systems would entail amending existing contractual agreements and will be an expensive endeavor for the department. With other pressing priorities, we do not have the capacity to undertake this currently.

As any responsible organization should, L&I is constantly working to improve the customer experience. We are working diligently to implement system enhancements that ensure hearing notices are mailed with sufficient time to prepare for hearings. We are working continuously to improve our communications with customers with a special emphasis on identifying common user errors and adjusting processes and guidance to reduce their frequency. Since the launch of the modernized system, we have made demonstrable improvements in this area, including issuing higher quality determinations.

We know that there have been concerns surrounding in-person verification, and I would like to reiterate once again that identity verification is only necessary for claimants who opt to file their UC claims online. Most claimants do file online and the vast majority are able to successfully use ID.me to verify their identities.

We thank the Advisory Committee for its recommendations, and we continue to be receptive to feedback on the operation of the UC system in order to provide a more positive customer experience.

UC System and Customer Service Updates

In the eight months since L&I launched the modernized UC system in June 2021, 611,206 claimants have been paid \$3,395,988,465.54 in benefits. While the last few years have created an unprecedented strain on the UC system, unemployment trends are now similar to what they were in the years immediately before the pandemic. The months of January and February are traditionally the "busy season" for UC, and this year has, thus far, been no different. Phone calls and emails with questions about the UC system have increased in the early months of this year as claimants who have not filed for benefits in the past eight months interact with the system for the first time. This volume is not unexpected and is in line with a "normal," non-pandemic year. Additionally, there are seasonal individuals who normally may not need to contact us, but they are encountering the system for the first time and their questions cause them to reach out to us for guidance.

With that in mind, we continue to make progress in reducing our backlogs in processing non-monetary determinations and claims, tickets, and fraud reports. Based on improved reporting capacity in the UC system, we have been able to further define our backlog,

broken out by non-monetary issues that will be addressed by an examiner and other outstanding issues on a claim that can be addressed by an interviewer. As of the beginning of February, the backlog of claims with nonmonetary issues stands at 50,618 for traditional UC claims and 14,675 for Pandemic Unemployment Assistance (PUA) claims. There are an additional 48,256 claims with pending issues that can be addressed by an interviewer. Currently, our examiners are issuing approximately 17-19,000 determinations per week.

We hear the frustrations from both claimants and legislators about the backlog of tickets. We share this frustration. As this committee is aware, in September 2021 the federal government ended the emergency staffing flexibility that allowed contract staff to be used to process unemployment claims. This severely reduced the number of personnel able to process claims because it meant that our contract staff are now restricted to only collecting information and routing claims to be processed by our permanent L&I staff, a practice that we referred to as our ticket system.

To continue to improve customer service within the dual constraints of federal funding and federal restrictions as to what contractor staff may do, L&I wound down the use of the ticket system on Friday, January 28. Now, only permanent UC employees will answer phone inquiries and resolve claimants' issues directly over the phone. Separately, other permanent UC staff will continue working to resolve every ticket filed with L&I. This will allow us to address our backlog without it growing larger.

As part of our reengineering of the claims processing process, we are currently hiring up to 100 new intake interviewers to begin work at the end of February. We also hope to promote up to 80 current interviewers to become examiners to help address the backlog of non-monetary determinations. As I mentioned previously, despite our use of contractors having been severely limited by the termination of the emergency staffing flexibility, we are redeploying our remaining contractor staff in creative ways that will help address our most pressing needs.

As of the beginning of February we have 245 Inspiritec contractor staff, 106 of whom are full-time and 139 of whom are part time. Following the winddown of the ticket system, these contractors are being deployed to two main areas: Keystone ID/ID.me assistance and fraud assistance.

The majority of these contractors are currently training to assist our Internal Audits Division (IAD). IAD handles all the fraud reports received by L&I. Currently, the backlog of fraud reports stands at 51,000. These additional resources will be critical to reducing that figure by bolstering the efforts of IAD's full-time staff. We will also be using close to 90 volunteers from our UC Tax Services bureau to help process fraud reports during overtime hours.

UC Fraud

Since the start of the COVID-19 pandemic and increasingly after the introduction of new federal pandemic programs like PUA, L&I has continuously faced fraudulent attacks on the UC system. In more recent months these attacks have escalated in sophistication and have increasingly targeted traditional UC. When we became aware of significant fraudulent activity targeting the PUA system, in both Pennsylvania and around the country, L&I implemented ID.me for all initial claims. ID.me worked: it reduced PUA fraud by half, from 20.58% to 10.3%. Once suspicious activity was first detected in the modernized UC system in the summer of 2021, we quickly moved to implement ID.me for all traditional UC claims with similar positive results.

Shortly after the launch of the modernized system, all claimants had to verify their identity through ID.me. This was expanded to all claimants who filed a claim that began in or after March 2021. ID.me was also implemented for claimants who attempted to change their Keystone ID or their method of payment in the system. These additional security measures are essential tools for maintaining program integrity and in protecting Pennsylvania taxpayer dollars, but it is important to also acknowledge the added burden these security layers can create for some UC claimants.

This committee has expressed interest in the effect of fraudulent activity on the UC Trust Fund. The Independent Fiscal Office's (IFO) recent report on L&I's performance-based budgeting quantified that impact from Quarter 2 of 2020 (2Q2020) through Quarter 3 of 2021 (3Q2021). Working with L&I and GSI, the IFO estimated that total fraudulent payments totaled \$4,479,000,000 between 2Q2020 and 4Q2020 and \$1,528,000,000 in 2021 through 3Q2021.

It is important to note that these totals include not only traditional UC but also special pandemic programs such as PUA and the Federal Pandemic Unemployment Compensation (FPUC) programs. These special pandemic programs were fully funded by the federal government and thus did not have a fiscal impact on the UC Trust Fund. When the federal pandemic programs are excluded, the IFO estimated that there was \$429,000,000 in traditional UC fraud in 2020 between 2Q2020 and 4Q2020 and \$141,000,000 in 2021 through 3Q2021. This \$570,000,000 in estimated traditional UC fraud is significant and represents roughly 6.3 percent of the total \$8,988,000,000 in traditional UC payments that were disbursed between 2Q2020 and 3Q2021.

Even in the face of this unprecedented fraud, L&I has worked to assist the Pennsylvania Treasury in recovering stolen monies and the Treasury has to date recovered more than \$1.1 billion in fraudulent payments since 2020. We will continue to work with the PA Treasury and our law enforcement partners to recover additional fraudulent payments.

Even with enhanced front-end security measures, such as ID.me, and back-end security measures implemented by our vendor and the Office of Administration (OA), fraudsters have continued to target Pennsylvania. In a January 21, 2022, press release, L&I publicly acknowledged the existence of an FBI and Department of Homeland Security

(DHS) investigation into what appears to be a highly sophisticated, coordinated attempt to infiltrate various government systems, including the UC system.

As part of ongoing investigations into fraud, L&I is taking the proactive step of offering free credit-monitoring services to all UC claimants. Interested UC claimants will be able to register for these free credit-monitoring services soon and further information will be shared once available.

As you may surmise from our partners in this investigation, this is significant and serious. L&I is treating it with the same diligence as we do any and all security and trust issues. We know that Pennsylvanians place tremendous trust and confidence in our agency to serve them when they need help the most and to protect their tax dollars from misuse and theft. For all of us at L&I, this is a sacred responsibility, one that we have never and will never take lightly. We are working steadfastly with the Office of Administration and our partners in law enforcement to investigate, identify, and eliminate any potential fraudulent activity. We will continue to add additional layers of security to the system, including two factor authentication.

L&I is fully committed to transparency with the General Assembly, UC claimants, and the public to the extent it does not interfere with the ongoing federal investigation or the security of the system. We are also committed to providing updates as they occur, including instructions for claimants for how they can access credit monitoring, and when two factor authentication will be implemented.

Thank you for your partnership as L&I, OA, and our law enforcement partners work together to investigate and eliminate this national fraud problem that is affecting Pennsylvania directly. These despicable actors have not only stolen public money and complicated our administration of UC -- but they have also made life harder for deserving claimants to access UC benefits, and that is why our focus is on rooting them out.

We look forward to answering your questions at this time.

Unemployment Compensation Benefits Modernization Advisory Committee
Final Report
December 31, 2021

I. Purpose

This report is submitted by the Committee, created under Act 60, P.L. 1191, Section 301.4 of the Unemployment Compensation Law. The House Labor and Industry Committee has requested a final report before the Committee sunsets on December 31, 2021. The Committee also feels it is appropriate to provide an update on the status of the project.

II. Advisory Committee

Department of Labor and Industry Appointees:

David Naisby, CIO, Employment, Banking, & Revenue Delivery Center
Melanie Gingrich, Project Manager, DLI
Brad Mengel, UC Claim Intake Interviewer

Legislative Committee Appointments:

Shawn Eyster, Director, Senate Republican Computer Services
Geoffrey Moomaw, President, Interstate Tax Services, Inc.
Julia Simon-Mishel, Supervising Attorney, Philadelphia Legal Assistance
Steve Catanese, President, SEIU 668

Since our July 2021 report, the Committee has convened for 3 public meetings: August 25, 2021; November 17, 2021; and December 8, 2021. In addition to the Committee members, leadership from every division of the Office of UC has attended the meetings where necessary to provide information, feedback, and support.

III. Project Timeline

The implementation of the new system began on May 30, 2021, when DLI began a partial black out period of the legacy mainframe. From May 31 to June 7, claimants were unable to file new UC applications. From June 3 to June 7, claimants were unable to file biweekly certifications. The new online system went live as planned on June 8, 2021. The new weekly certification telephone filing system went live as planned on June 10, 2021.

IV. Project Budget

The project remains on budget. None of the delays have affected the overall project budget and DLI leadership remains committed to vendor accountability and has done its due diligence with the budget. DLI leadership must approve all payments. As of December 2021, DLI has paid \$13,812,087.70 on its contract with Geographic Solutions Incorporated (GSI). The expected total cost for the Benefit Modernization Project is \$35 million. DLI has continued to closely track the vendor's progress and will hold the vendor to all contractual obligations. There are also optional single year extensions of the

contract as follows: (Year 1) \$2,546,761.86; (Year 2) \$2,678,311.76; and (Year 3) \$2,546,761.86. At this time, DLI plans to engage in the first year extension.

V. Project Functionality

The new UC portal allows claimants to file dynamic initial applications and weekly certifications, review their answers from weekly certifications, view detailed payment history, receive both direct and mass messages, pay overpayments, and file some appeals. The portal also allows claimants to view past claims. The new UC portal allows employers and TPAs to respond to fact-finding, file for relief from charges, file and review appeals, review appeal files, and protest claims that have already been paid.

A. Functionality Updates

The new UC system went live without one important function: wage reporting in the automated telephone filing system. Since the system was implemented, DLI has been working to add that functionality. As of December 10, 2021, claimants are now able to report their earnings when they file their weekly certifications through the automated telephone filing system.

When the system went live, employers and TPAs could not add secondary users to their accounts, meaning that only one individual per entity could access the system. DLI was able to fix this for employers, but TPAs must contact DLI individually to add another user to their accounts. Previously, only a single user for employers and TPAs could access the message center, but DLI has now created a shared message center that primary and secondary users can access.

The project team has also been working on functionality updates around refunds and reissues. The system can now process refunds, such as when an overpayment is reversed, or DLI discovers that an individual repaid more than their owed amount. Most reissues, situations where money was previously paid out on a claim but needs to be paid again for some reason, are now functional, with the exception of a few areas where DLI is still fixing functionality.

Since implementation, DLI has continued to work on the functionality related to claimant earnings so it can properly investigate potential overpayments. This includes digitizing the wage reporting forms that were used prior to modernization. DLI also continues to work on improvements to data conversion from the mainframe, including updating claim records to correctly show overpayment offsets. Finally, in preparation for the new system's first tax season, DLI has been working with the vendor on finalizing and testing the functionality for the issuance of 1099-Gs.

B. Ongoing Concerns

The Committee has concerns about certain functionality issues that have resulted from design choices by DLI or limitations of the “commercial off the shelf” product provided by Geographic Solutions Inc. DLI combined the billing notices for fault and non-fault overpayments, so that individuals who have non-fault overpayments now receive notices that warn them DLI can take actions such as “intercepting your federal income tax refund, filing a lien against you and/or pursuing criminal prosecution.” None

of these consequences apply to non-fault overpayments. Further, the notices no longer clearly state the type (non-fault or fault) of overpayment at the top of the first page, and sometimes do not even identify the type until the third page. After this issue was raised by both claimant and employer representatives, DLI has agreed to revisit the language and design of the notices.

Additionally, claimants are limited in which appeals they can file in the portal. If a disqualifying determination is issued on a prior claim, the claimant will see a message with the determination but will not be able to view it in the “determinations” section of the portal, and therefore cannot appeal it in the portal. This is causing significant confusion among claimants, who may receive several notices of determination at once, but only see one or two available to appeal in the portal. Claimants are not informed that they cannot appeal these determinations in the portal, even though the determinations tell them the best way to appeal is *through the portal*. By contrast, employers are not limited in which determinations they can appeal through the portal.

DLI, through the “core team,” has worked with the employer community, through their representatives, on system functionality issues since June 8, 2021. The team has been transparent throughout this process. The efficiency of implementing necessary changes or suggestions has been hampered by the response from the vendor, GSI, such as the limited number of staff from GSI devoted to PA. The Committee has been informed though that the “core team” will remain in place moving forward to continue to work with both employee and employer advocates to improve the user experience with the new system.

VI. Front-line UC Staff Report Back

Staff continue to struggle with the constraints of the new system. However, staff are also progressing in their understanding of the system and how to navigate it more efficiently every day. The main problems experienced by staff are areas of the system that are unfinished, or specific issues that occur which then need to be addressed and fixed. We continue to lose staff through various forms of attrition, as many seasoned representatives will either retire or move on to other agencies trying to escape the pressures of UC work and the new system. We consistently report the need for continuing replenishment of UC staff to attempt to stay ahead of the overwhelming backlog. Whereas the new system has helped us get large numbers of claimants paid quickly, it has not been as kind to small pockets of individuals caught up in the constraints of the new system.

VII. Remaining Recommendations

Act 60 requires this Committee to report on any recommendations made to DLI and whether those recommendations have been accepted. The Committee has made the following significant recommendations that remain just as important now that the system has been implemented:

Integration with PA CareerLink®. Early on, DLI informed the Committee that the UC Benefits Modernization project would not result in integration with PA CareerLink®. The Committee is concerned that a lack of integration will be confusing to claimants, who will be asked to register a significant amount of personal information with two separate websites before they can be fully

registered for unemployment benefits. Now that both the work search requirement and the CareerLink registration requirement are back in place, this remains a top priority.

Department's Response: DLI has stated that common intake integration is outside of the scope of the implementation timeline and would be a consideration post go-live.

Equal Access. The current system design provides online portal access to Third Party Administrators (TPA) who represent employers in Pennsylvania. This allows the TPAs access to claim records, claim notices, and other documentation for the employers they represent, while also providing them with the opportunity to use self-service tools, online appeal filing and hearing scheduling systems. There is **no similar access for claimant representatives**. The Committee feels strongly that equal access and treatment is required and that there should be a way to configure portal access to also accommodate claimant representatives.

Department's Response: DLI conveyed to the Committee access for claimant representatives is not included in the current contract. Access for claimant representatives would be considered as an enhancement post go-live. Employer TPA functionality is limited to employer related activities. The employer TPA functionality does not allow access to the claimant record.

Ensure that Claimants and Employers are Given a Fair Opportunity to Be Heard During Investigations and Receive Sufficient Notice of Issues Involved. The investigation done by the Service Centers into eligibility issues is now done primarily through digital fact-finding forms sent to claimants and employers in their portals. Because these forms include required questions with multiple choice answers, they often force parties to provide incorrect answers. Forms should provide an “other” or open response answer choice, and also provide more free form sections for parties to provide explanations. Employer and claimant representatives have also raised concerns about the level of detail provided in eligibility determinations from the new system. The vast majority of these determinations lack the level of fact-finding that provides parties with appropriate notice and understanding of the issues involved in the case. DLI should ensure these notices include the same level of fact-finding as the notices issued in the previous mainframe system.

Issue Public Communication About In Person Identity Verification Option. In July 2021, DLI expanded its contract with the third-party vendor ID.Me to include claims for state benefits in order to protect against criminal syndicate fraud based on large scale identity theft. This addressed a concern raised by the Committee in its July 2021 report. Claimants must now verify their identity through ID.Me before filing a new application for UC benefits, and claimants already collecting were required to verify through ID.Me to access their online portal. Claimants may be required to verify again when they want to change information on their portal. Many vulnerable workers in Pennsylvania struggle to complete ID.Me due to technology challenges, or because they lack the exact documentation required by the vendor. To address this concern, DLI has created an in-person verification option through a partnership with local CareerLink offices. This approach, one of the first of its kind across the country, provides much needed access to benefits for vulnerable workers. However, DLI has not engaged in any public communication

about this option. DLI should immediately provide information about this option on the homepage of the UC portal, on the UC website, and through its social media outlets.

VIII. Conclusion

The Committee sunsets on December 31, 2021, but the Committee expects that employer and claimant representatives, along with legislative office staff and community partners, will continue to provide feedback to DLI about the operation of its new UC system. We hope that the legislature will support further improvements to the system to the extent funding or legislative action is required.