

Jobless benefits likely overpaid by \$250 million

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A New Mexico state agency made an estimated \$250 million in unemployment benefit overpayments amid the COVID-19 pandemic, according to a new legislative report. The state's unemployment fund was largely depleted due to a surge in pandemic-related jobless claims. (Eddie Moore/Albuquerque Journal)

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SANTA FE – Due to a mix of fraudulent claims and human error, New Mexico may have overpaid unemployment benefits by \$250 million amid an unprecedented spike in jobless claims during the pandemic, according to a new legislative report.

The report released Wednesday at a Legislative Finance Committee meeting in Las Cruces said the reasons for the overpayments included insufficient staffing at the state Department of Workforce Solutions and a backlog of investigations into potentially fraudulent claims.

In addition, the report cited outside audits that found jobless benefit determination errors, likely caused by low staffing levels and training issues, and incorrect interpretation of both federal guidance and a state law aimed at holding employers harmless from layoffs that occurred during the pandemic.

New Mexico's unemployment fund was largely depleted last year by the explosion of pandemic-related jobless claims, prompting the state to borrow \$278 million from the federal government to continue paying benefits to unemployed workers.

Of the projected \$250 million in overpayments, more than half – an estimated \$133 million – were due to potentially fraudulent claims, according the LFC report.

Ricky Serna, acting secretary of the Department of Workforce Solutions, said the report would be helpful for the agency.

He also said the abrupt surge in jobless claims starting in April 2020 – from about 14,000 active claims to 200,000 claims during a three-month period – largely caught the agency off-guard despite having a plan in place for economic recessions.

“The sudden influx of calls and claims hit very quickly,” said Serna, who took over the agency's reins after previous Secretary Bill McCamley stepped down.

But he also said the unemployment system has not had any broad data breaches during the pandemic and defended the performance of agency workers.

“They're good at what they do,” Serna said.

Sen. Crystal Diamond, R-Elephant Butte, said Wednesday that she understood the strain on the department but called the overpayments a “massive mismanagement” of taxpayer dollars and said agency leaders should be held accountable.

New Mexico's unemployment rate was among the nation's highest, at 8.3% as of March, and the state recently reimposed job search requirements for those receiving jobless benefits that had been suspended at the onset of the pandemic.

There were slightly more than 90,000 state residents receiving jobless benefits as of April, down from nearly 120,000 claiming unemployment benefits at the start of January, according to DWS data.

Persistent problem

Overpayment determinations have been a persistent problem in New Mexico and other states since the pandemic began.

Data obtained by the Journal in February showed that the state workforce agency sent out nearly 25,000 letters informing unemployment recipients they had been overpaid in 2020.

At the time, the agency said common issues leading to overpayments include failing to report gross earnings or other deductible income correctly, and continuing to receive benefits after returning to work.

In March, DWS announced that some claimants who were deemed to have been overpaid through no fault of their own through a federal pandemic aid program would be able to request waivers. The waiver would allow the department to waive some or all of the benefits due to be repaid.

In response to questions from lawmakers Wednesday, Serna said some of the overpayments could be recovered due to adjustments with those still receiving benefits, but he acknowledged it would likely be difficult to recoup all of the money.

But Alicia Clark, a benefits attorney with New Mexico Legal Aid, said some unemployed workers have received numerous letters from the department with differing overpayment amounts.

“People are getting their benefits garnished before they’ve had a chance to appeal their determination,” said Clark, who estimated she’s heard from more than 100 out-of-work New Mexicans on the issue.

“It’s not the people’s fault they got overpaid – it’s the department’s,” she said during a Wednesday interview.

In all, Serna said New Mexico had paid out roughly \$3.8 billion in jobless benefits during the pandemic – a figure that includes funds made available under federal stimulus plans.

100 staffers added

The deluge of unemployment claims related to the COVID-19 outbreak and business restrictions imposed in response to it overwhelmed New Mexico’s unemployment website and phone hotline.

The Department of Workforce Solutions eventually added more than 100 staffers – many from other state agencies – to help run the unemployment insurance call center, which also expanded its daily hours of operation.

“The surge in claim volume no question impacted agency performance,” Serna said. “We know there are things we could have done better.”

He also cited a spike in fraudulent unemployment claims from all over the world and acknowledged the difficulty in addressing the problem.

And he said even some Department of Workforce Solutions employees had been victims of identify theft leading to fraudulent unemployment benefit claims being filed.

Meanwhile, Gov. Michelle Lujan Grisham has said her administration would look to target much of the \$1.7 billion it will get over the next two years in federal relief funds at bolstering New Mexico’s largely depleted unemployment fund.

While the governor used her line-item veto authority in April to ax a legislative proposal to earmark \$600 million of the federal funds to the fund, a spokeswoman said at the time that the action was necessary due to uncertainty over the federal guidelines for spending the dollars.

Journal staff writer Stephen Hamway contributed to this report.