

JANUARY 26, 2021

Legislative Oversight of Ongoing Challenges at EDD

PRESENTED TO: Assembly Budget Subcommittee No. 4
On State Administration
Hon. Wendy Carrillo, Chair

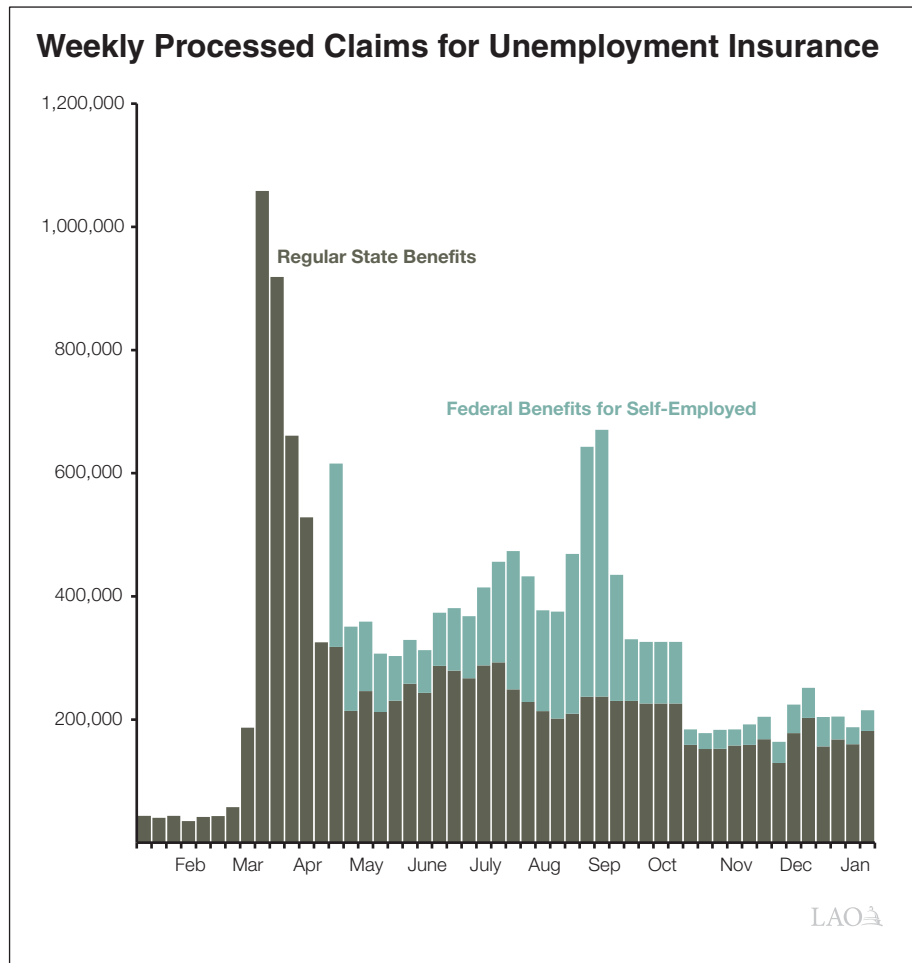


LEGISLATIVE ANALYST'S OFFICE

Demand for Unemployment Insurance Remains Very High

New Claims for Unemployment Insurance (UI) Have Slowed Since Peak... Since October, the amount of newly processed UI claims has been stable at about 200,000. This is much lower than the levels seen in the spring and summer, which were regularly above 400,000 new claims per week.

...But Remain About Five Times Higher Than Normal Levels. Although new UI claims have slowed in recent months, the number of claims from newly unemployed workers remains five times higher than normal.



Time Line of Steps to Address Challenges at EDD

July—Governor Forms Strike Team to Address Delays at Employment Development Department (EDD). On July 29, the Governor announced the formation of a “strike team” to immediately modernize EDD’s UI technology and improve customer services. The strike team was overseen by the state’s Government Operations Agency.

September—Strike Team Issues Thorough Assessment and Recommended Actions. In mid-September, the strike team published an exhaustive, critical assessment of delays at EDD and issued key recommendations to address the delays. The strike team also made dozens of additional recommendations to improve EDD processes going forward.

September—EDD Implements Major Strike Team Recommendations. In response to the strike team recommendations, EDD took steps to adopt the report’s near-term recommendations:

- Two week reset.
- New identity verification software—ID.me.

September—Strike Team Calculates Size of UI Claims Backlog. In September, the strike team estimated that 1.6 million claims were backlogged (meaning more than three weeks late). Many claims had been delayed for much longer than three weeks, in many cases several months.

September—to Limit Fraud, EDD Stops Automatically Approving Backdated Claims. During August and early September, new claims for the federal Pandemic Unemployment Assistance (PUA) program for self-employed workers spiked unexpectedly. In response, EDD took several steps to limit potentially fraudulent claims, including no longer automatically approving backdated PUA claims.

September—EDD Begins Tracking Size of UI Backlog. In late September, in response to the backlog calculated by the strike team, EDD began publishing weekly UI claims backlog reports.

October—EDD Begins Tracking Implementation of Strike Team Recommendations. After the committee’s last oversight hearing, EDD began tracking its progress to implement the strike team’s recommendations. The tracking document is publicly available.

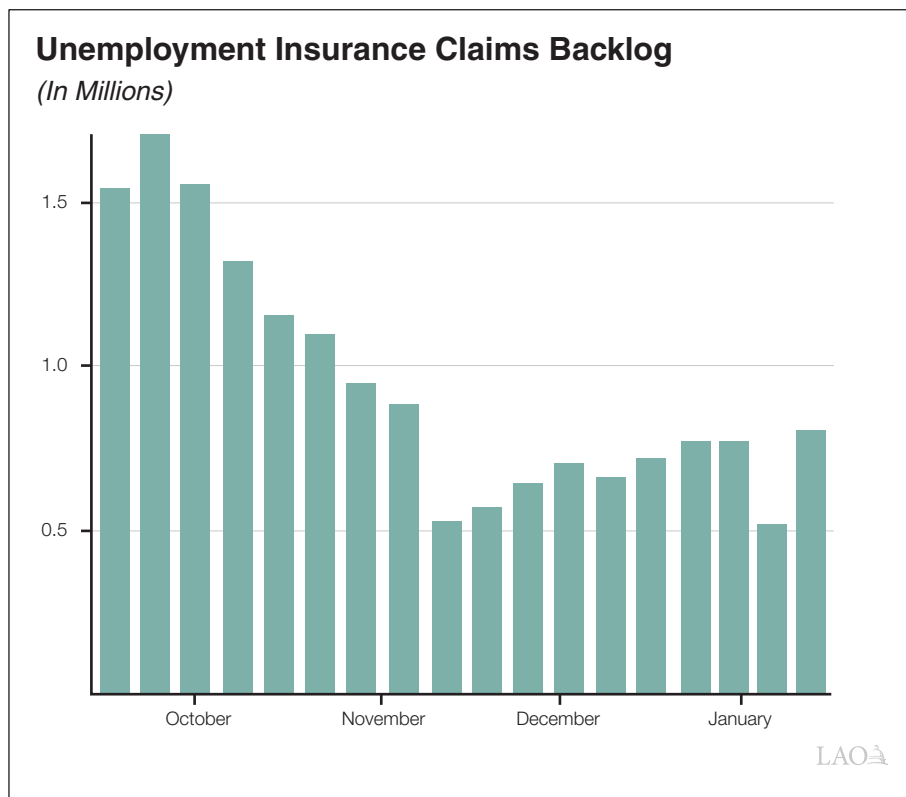


After Initial Success, UI Claims Backlog Growing Again

Initial Success in Addressing Backlog. Following the strike team report, EDD projected it would eliminate the backlog by January 27, 2021. On net, during the fall, the backlog fell from a high of 1.8 million claims to about 500,000 claims by mid-November. As of now, EDD has addressed nearly all claims that were in the backlog as of September when the backlog was first calculated. However, thousands of claims have become newly backlogged since then.

Despite Fewer Incoming Claims, Backlog Has Climbed Again in Recent Months. As of January 13, the backlog has inched upward to more than 800,000 claims. These claims have become newly backlogged since the strike team first estimated the size of the backlog in September.

Half of Backlogged Claims Are Delayed Because Worker Needs to Provide EDD More Information. According to EDD, at least half of the backlog is cases where EDD needs more information from the claimant and is awaiting a response.



Implementing Recently Enacted Federal Extensions

On December 27, the federal government extended for 11 weeks the emergency federal UI benefits first provided under the Coronavirus Aid, Relief, and Economic Security (CARES) Act. Major provisions of the federally funded extension include:

- ***\$300 Weekly Add-On for All UI Claimants for 11 Weeks.***
- ***Additional 11 Week Extension for PUA Claims (Self-Employed Workers).*** Under the extension, PUA benefits will now be available for up to a total of 57 weeks.
- ***Additional 11 Week Extension for Regular UI Claims.*** Under the extension, regular UI benefits will now be available for most claimants for up to a total of 59 weeks.
- ***Potential for Forthcoming Extensions Under New Administration.***



Fraudulent Claims

Overwhelming Majority of Fraud Is Associated With Federal PUA Claims. Fraudulent activity related to the new federal benefit program for self-employed workers has been widespread, affecting UI systems throughout the country. In large part, this program has been the target of fraud due to federal policymakers' decision to prioritize immediate assistance during the early days of the pandemic when the depth of the economic crisis was unknown. In prioritizing timely benefit issuance, the new federal law and regulations required claimants to submit a lower standard of identity and wage information than under the existing UI program. In California, EDD implemented the PUA program in line with this federal law and guidance.

Benefits Provided Through PUA Claims Are 100 Percent Federally Funded. Benefits provided under the PUA program to self-employed workers are entirely federally funded. To date, nearly \$45 billion in PUA benefits have gone to California workers. The share of these federally funded benefits that were claimed fraudulently is unknown.



Recent Steps to Address Fraud Raise Questions

EDD Recently Identified 1.4 Million PUA Claims as Potentially Fraudulent. Around January 1, EDD reviewed nearly 10 million PUA claims made during the pandemic for potentially fraudulent characteristics. During this review, EDD identified 1.4 million claims as potentially fraudulent and these accounts were suspended. What information the administration used to make this determination is not clear. Furthermore, to our knowledge, the Legislature was not consulted with or notified ahead of time of the decision to suspend claims.

Notifications About Suspended Claims Sent Out Earlier This Month. On January 6, EDD began sending out batch notifications to people whose claims have been suspended. To our knowledge, EDD did not notify claimants before their accounts were suspended.

Claims Flagged as Potentially Fraudulent Are Suspended Until Claimant's Identity Is Verified. Claims identified as potentially fraudulent have been temporarily suspended until EDD receives additional information from the claimant. In most cases, the claimant must verify their identity using EDD's new third-party software, ID.me.

Too Soon to Tell How Many Legitimate Claims Were Flagged as Potentially Fraudulent. In the coming weeks, people whose claims were suspended will verify their identity via ID.me and regain access to EDD benefits. The state will then have a better sense of how many legitimate claims were inappropriately flagged as potentially fraudulent. That being said, some workers already have come forward to express frustration that their claims were unexpectedly suspended, suggesting that at least some portion of the flagged claims are legitimate.



Recent Steps to Address Fraud Raise Questions

(Continued)

Decision to Suspend Claims Raises Questions About EDD’s Progress Implementing Strike Team Recommendations. Few details are available to policymakers and workers about EDD’s decision to suspend claims. This lack of transparency raises questions about EDD’s stated progress in implementing strike team recommendations related to departmental culture. In particular, EDD has listed as “completed” the key strike team recommendation that “EDD culture must shift from reactivity to rationality as it relates to fraud.” To do so, the completed recommendation clarifies that: “[...] fraud prevention and detection practices must be supported by data and evidence and that justifications for new and existing anti-fraud practices include an analysis not only of their effectiveness, but also tradeoffs and unintended consequences of these practices, including adverse impact on the experience of all claimants.” As an example that appears more consistent with EDD’s cultural change recommendation, the department could instead have notified claimants that their claims had been flagged as potentially fraudulent and given them a three week grace period to verify their identity before suspending the account.



Key Questions to Help Guide Oversight

In light of ongoing concerns about the backlog of delayed UI claims and recent steps to identify and eliminate fraud, the Legislature may wish to consider asking the department the following questions:

- How was the decision made to stop automatically approving backdated PUA claims? What effect did that action have on PUA claim activity?
- Why has the backlog of delayed claims increased in recent months after declining significantly following the two-week reset in October?
- Apart from the suspended accounts, what steps is EDD taking to contact claimants in the backlog who need to provide EDD with additional information before their claim can be restored?
- What criteria was used to identify the 1.4 million potentially fraudulent claims? Who made the decision to suspend the claims identified as potentially fraudulent? What share of these claims does EDD anticipate are fraudulent?
- What trade-offs, unintended consequences, or adverse impacts were identified as part of the analysis leading to the decision to suspend potentially fraudulent claims?

