

**Unemployment Insurance Program
Department of Labor and Employment**

**Performance Audit
October 2011**



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The mission of the Office of the State Auditor is to improve the efficiency, effectiveness, and transparency of government for the people of Colorado by providing objective information, quality services, and solution-based recommendations.



October 19, 2011

Members of the Legislative Audit Committee:

This report contains the results of a performance audit of the Unemployment Insurance Program. The audit was conducted pursuant to Section 2-3-103, C.R.S., which authorizes the State Auditor to conduct audits of all departments, institutions, and agencies of state government. The report presents our findings, conclusions, and recommendations, and the responses of the Department of Labor and Employment.

A handwritten signature in black ink, appearing to read "Dianne E. Ray".



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Glossary of Terms and Abbreviations

CUBS – Colorado Unemployment Benefits System

Department – Department of Labor and Employment

DOR – Department of Revenue

FTE – Full-time-equivalent staff

UI – Unemployment Insurance

UI Program – Unemployment Insurance Program

USDOL – U.S. Department of Labor



UNEMPLOYMENT INSURANCE (UI) PROGRAM

Performance Audit, October 2011

Report Highlights



Dianne E. Ray, CPA
State Auditor

Department of Labor and Employment

PURPOSE

Evaluate the UI Program's procedures for ensuring that only eligible individuals receive benefits, making timely benefits payments, recovering overpayments, and providing customer service to claimants.

BACKGROUND

- The UI Program aims to stabilize the economy by providing benefits to workers who lose employment through no fault of their own.
- Benefits payments are funded through premiums paid by Colorado employers.
- During Calendar Year 2010, the program paid about \$2.4 billion in benefits compared to \$298 million in Calendar Year 2006.
- Claims volume increased 190 percent from January 2007 to March 2009 and remains above historical levels.
- About 80 percent of the UI Program's administrative costs are paid by federal funding, with the remainder paid through state cash funds.

OUR RECOMMENDATIONS

The Department of Labor and Employment should:

- Ensure that claimants provide valid identification and attest to their lawful presence in the United States in compliance with House Bill 06S-1023's requirements.
- Increase the information it collects online, such as establishing an online system for employers to provide claims information and requiring more work search information from claimants.
- Reallocate additional staff to identify and recover overpayments.
- Increase the number of staff available to answer claimant phone calls.
- Evaluate whether UI eligibility should be based on only the claimant's most recent employer.

The Department generally agreed with these recommendations.

EVALUATION CONCERN

The UI Program has made a significant amount of overpayments in recent years. In addition, while staffing levels and information system limitations have made it difficult for the UI Program to keep up with increased workload and meet federal performance standards, opportunities exist for the UI Program to increase efficiency by eliminating labor-intensive processes and reallocating staff.

KEY FACTS AND FINDINGS

- The UI Program does not have adequate controls in place to verify that claimants are legally present in the United States, as required by House Bill 06S-1023. We estimate that the program paid \$60 million during Calendar Year 2010 to claimants who did not meet House Bill 06S-1023's identification requirements.
- In Calendar Year 2010, the UI Program paid an estimated \$169 million in overpayments (benefits for which people were not eligible), which represents 19 percent of all state benefits payments. Almost half of these overpayments, \$83 million, resulted from claimants reporting that they had searched for work when they had not or could not provide proof of these searches.
- Sixteen percent of the Department of Labor and Employment's (the Department) 239 nonmanagement full-time-equivalent (FTE) staff could be reallocated to more efficient functions if the Department reduces the use of paper forms, requires most claimants to apply online, further automates claims processing, and pursues statutory changes to simplify eligibility determination.
- The UI Program did not meet any federal performance standards for making timely payments, evaluating claimants' eligibility, and identifying overpayments during Calendar Years 2009 and 2010. The program did not meet most of the standards in Calendar Years 2006 through 2008.
- Claimants have had great difficulty reaching the UI Program's customer call center, usually receiving a busy signal, being directed to a self-service menu with no option to speak with an agent, or experiencing hold times of more than an hour when they do get through to the center.

FINANCIAL BENEFITS

Based on a statistical sample, we determined that the UI Program paid about \$60 million, or about 3 percent of the \$2.4 billion in state and extended UI benefits paid in Calendar Year 2010, to claimants who did not or could not meet House Bill 06S-1023's identification requirements and, therefore, should not have received benefits.

RECOMMENDATION LOCATOR
Agency Addressed: Department of Labor and Employment

Rec. No.	Page No.	Recommendation Summary	Agency Response	Implementation Date
1	24	Ensure that claimants meet the attestation requirements of House Bill 06S-1023 and federal law by (a) changing the application form so that claimants are clearly affirming that they are legally present in the United States, (b) requiring all applicants to affirm legal presence before receiving benefits, and (c) eliminating the use of the current paper affidavit form for affirming legal presence.	a. Agree b. Agree c. Partially Agree	a. December 2011 b. December 2011 c. November 2011
2	27	Ensure that claimants meet the requirements of House Bill 06S-1023 for affirming their lawful presence in the United States by (a) requiring claimants to provide a valid Colorado driver's license or identification card or other acceptable documents and (b) establishing procedures to verify that the person applying for benefits is the same person depicted by the identification number or document that the person provides on his or her application.	Agree	December 2012
3	35	Improve the collection of information from claimants by (a) eliminating or reducing the use of the "Request for Facts—Employee" form, (b) increasing the number of employers who electronically submit information currently collected by the "Request for Facts—Employer" paper form, (c) adding an open-ended question to the application that asks claimants to provide more detailed information regarding the circumstances of their layoff, and (d) adding language to the continued claims filing systems indicating that claimants must conduct a work search and requiring all claimants to provide the number of job contacts made each week and information for each job contact.	a. Partially Agree b. Agree c. Partially Agree d. Partially Agree	a. December 2011 b. June 2012 c. December 2011 d. December 2012

RECOMMENDATION LOCATOR
Agency Addressed: Department of Labor and Employment

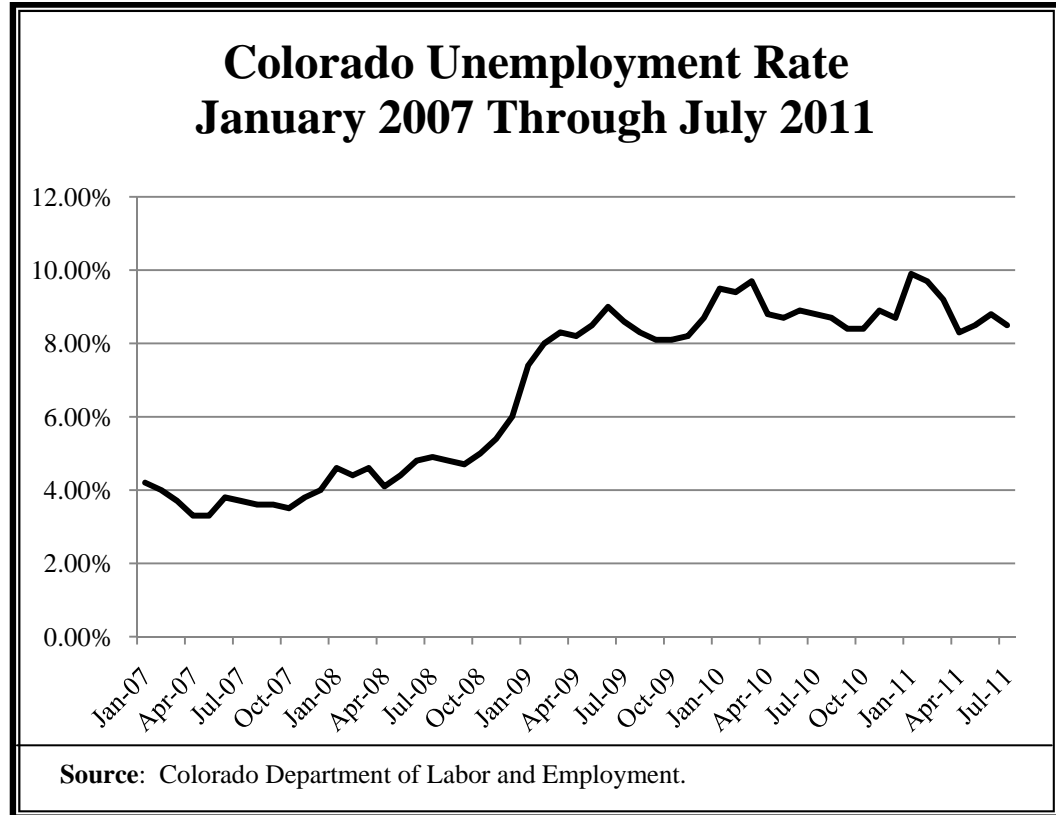
Rec. No.	Page No.	Recommendation Summary	Agency Response	Implementation Date
4	43	Improve the efficiency of claims review by (a) reprogramming the Colorado Unemployment Benefits System to increase automated processing of claims; (b) making changes to claims filing rules to require claimants to file earlier and ensuring that the deadlines for resolving claims eligibility issues align with federal deadlines; and (c) working with the General Assembly to change statute to allow for the determination of eligibility based solely on the last employer, if the Department's analysis determines that this is in the best interests of the State.	a. Partially Agree b. Partially Agree c. Agree	a. September 2012 b. July 2013 c. July 2013
5	50	Increase the number of overpayments detected and recovered by (a) reviewing the current staffing levels and determining if there are opportunities to reassign additional staff to the Benefit Payment Control unit and (b) giving priority to detecting and collecting more recent overpayments.	a. Agree b. Agree	a. November 2011 b. Implemented
6	54	Improve its customer service functions by (a) eliminating or restricting the use of customer call backs; (b) requiring most claimants to apply for UI benefits online; and (c) implementing strategies to increase the number of staff answering customer service calls, including evaluating the UI Program's flex schedule policy.	a. Agree b. Partially Agree c. Agree	a. March 2012 b. May 2012 c. July 2012

Overview of the Unemployment Insurance Program

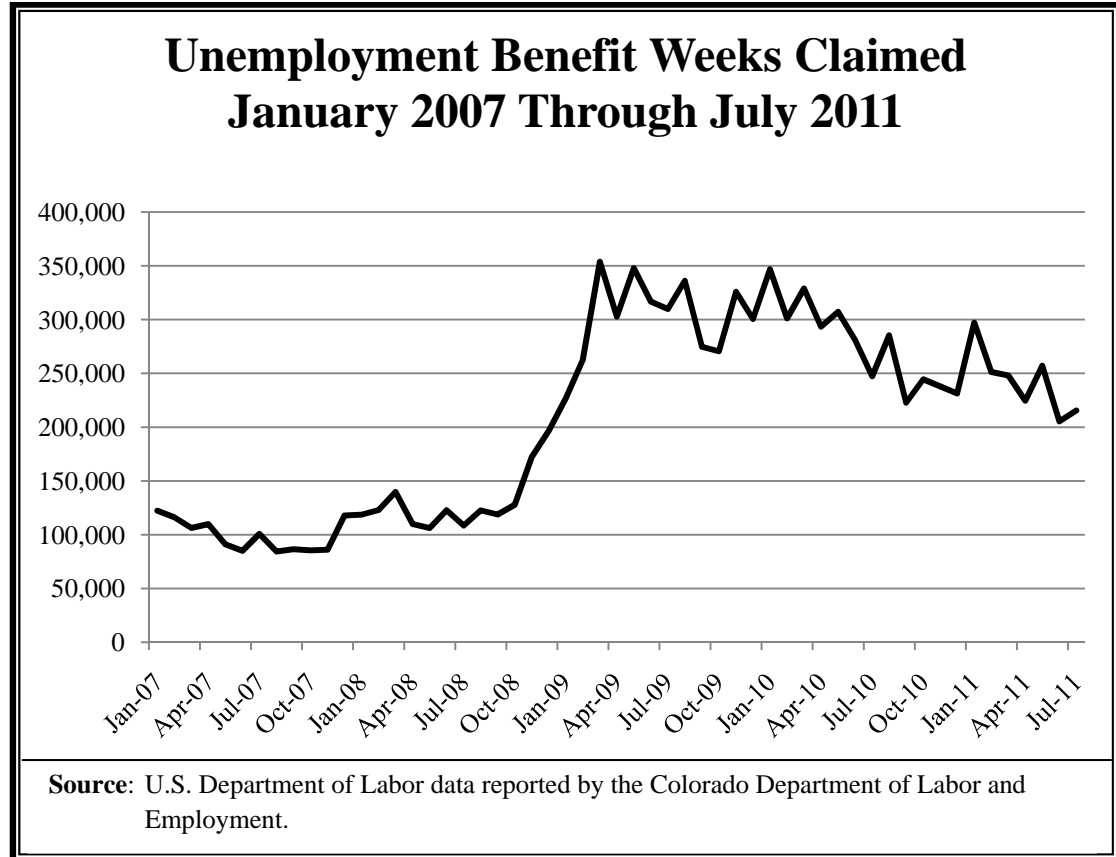
Chapter 1

The Unemployment Insurance Program (UI Program), within the Colorado Department of Labor and Employment (the Department), provides financial assistance to workers who lose employment through no fault of their own. Under the program, employers pay premiums for each employee, which the UI Program uses to provide benefits payments to unemployed workers. According to statute (Section 8-70-102, C.R.S.), the key purposes of the program are to stabilize the economy during periods of high unemployment, maintain purchasing power, and support workers who lose their jobs.

As shown in the following graph, Colorado's unemployment rate has increased significantly over the last 4 years due to the national economic recession that began in 2007. From January 2007 through July 2011, the percentage of unemployed workers in Colorado increased from 4.2 percent to 8.6 percent, peaking at 9.9 percent in January 2011. As of July 2011, out of the Colorado labor force of about 2.7 million, a total of 231,000 (8.6 percent) workers were unemployed.



The large increase in unemployment has led to a corresponding increase in unemployment claims processed by Colorado's UI Program. A key measure of claims volume is the number of weekly benefits claims per month. Because claimants must file requesting benefits for every week that they remain eligible, a single claimant can claim several weeks each month. As shown in the graph below, from January 2007 to March 2009, the weeks of unemployment claimed each month increased from about 122,000 to 354,000, an increase of 190 percent. The weeks of unemployment claimed each month fell to about 216,000 in July 2011, which still represents a significant increase over the level of weeks claimed each month in Calendar Years 2007 and 2008.



Federal Unemployment Insurance Framework

State unemployment insurance (UI) programs operate under federal-state partnerships. Federal laws establish broad UI coverage and benefits provisions, the federal unemployment tax base and rate, and administrative requirements. Within this framework, states design the key components of their own UI programs, such as benefits eligibility criteria, benefits amounts, and premium rates assessed to employers to support the benefits paid. Three agencies within the federal government are charged with different responsibilities related to unemployment insurance, as described below.

- **U.S. Department of Labor (USDOL).** USDOL oversees states' compliance with federal requirements related to unemployment insurance and distributes funding to states to administer their UI programs. Among its responsibilities, USDOL ensures that state laws, regulations, rules, and operations comply with federal law; sets overall policy for administering

the programs; monitors states' performance; and provides technical assistance to states, as needed.

- **Internal Revenue Service (IRS).** At the time of our audit, the Federal Unemployment Tax Act authorizes the IRS to collect an annual federal tax from employers of 6.2 percent on wages up to \$7,000 paid to an employee each year. An offset credit of up to 5.4 percent is available to employers if they pay their unemployment taxes in a timely manner and their state complies with federal requirements. Because the State is in compliance with federal requirements, Colorado employers receiving this credit pay a net tax rate as low as 0.8 percent.
- **U.S. Treasury.** The U.S. Treasury manages the federal UI Trust Fund, which consists of 53 accounts for states and U.S. territories and six additional federal accounts. Premiums collected by states' UI programs are deposited in each state's UI Trust Fund account and are held by the U.S. Treasury until they are used to pay UI benefits. Federal unemployment taxes collected by the IRS are deposited into three of the federal accounts and are used to (1) finance the administration of state UI and employment services programs, (2) reimburse states for the federal share of extended benefits (which we describe later in this chapter), and (3) provide loans to states with insufficient reserves in their trust funds to cover benefits.

Eligibility Requirements

As previously mentioned, federal law outlines general eligibility requirements for UI benefits, and each state is responsible for establishing eligibility laws within the general framework. In Colorado, the Colorado Employment and Security Act (Sections 8-70-101, et seq., through 8-82-101, et seq., C.R.S.), House Bill 06S-1023 (Sections 24-76.5-101, et seq., C.R.S.), and Department regulations provide eligibility rules for UI benefits. Generally, to receive benefits, claimants must:

- **Earn Wages.** Claimants must have earned at least \$2,500 in wages through qualified employment during the "base period," which is the first four completed calendar quarters within the last five completed calendar quarter period. In some cases, claimants may instead qualify using an "alternative base period," which is the four most recent completed calendar quarters.
- **Be Unemployed Through No Fault of Their Own.** Claimants who are fired for good cause or who voluntarily quit their jobs are generally not eligible for UI benefits.

- **Be Able to and Available for Work.** If claimants cannot work due to illness or injury, or are not available for reasons such as lack of transportation, child care responsibilities, or enrolling in an academic program, they are generally not eligible for benefits.
- **Be Legally Present.** Claimants must provide proof that they are lawfully present in the United States before they can receive benefits payments.
- **Seek Employment.** With some exceptions, program rules require claimants to make five job contacts each week to receive benefits.
- **Be Willing to Accept Work.** If claimants are offered work of an equal or higher skill level than their previous employment and refuse the offer, then they are typically not eligible to continue to receive UI benefits.

Though claimants must generally meet these requirements to receive benefits, statute provides numerous exceptions. For example, if claimants quit employment due to reduced wages, harassment, or an unsafe work environment, they may still qualify for benefits.

Colorado offers two types of unemployment benefits, regular and extended, to eligible individuals. Regular benefits are available to all claimants for up to 26 weeks and are paid by the State with monies in its federal UI Trust Fund account. Extended benefits beyond these initial 26 weeks may be authorized by federal or state law during periods of high unemployment. Federal and state extended benefits were authorized in Colorado through December 2011 and allowed some claimants to receive benefits for as long as 99 weeks if their periods of unemployment corresponded with federal and state extended benefits time lines.

Unemployment Insurance Program Organization

During Fiscal Year 2011, the UI Program employed about 600 full-time-equivalent (FTE) staff. As of July 2010, the UI Program was composed of eight operating branches responsible for different aspects of the program, which we describe below.

- **Benefits (313 FTE)**—Responsible for accepting applications for benefits, processing claims, and issuing decisions on claims. Also operates the customer contact center, which takes claims and assists claimants with questions or problems regarding their claims by phone.

- **Appeals (64 FTE)**—Conducts hearings to make final eligibility decisions on processed claims that have been appealed by either the claimant or the claimant’s employer.
- **Support Services (90 FTE)**—Identifies and recovers overpayments, processes completed benefits eligibility forms provided by claimants and employers, maintains employer and claimant records, verifies the legal presence of alien claimants, and provides administrative support.
- **Staff Services (19 FTE)**—Conducts quality assurance reviews of UI Program activities and develops and communicates program policy to staff.
- **Telephone Operations (11 FTE)**—Develops and maintains the UI Program’s phone systems that claimants use to file initial claims, obtain information about their claims, file for weekly benefits, and make changes to their accounts. Also provides technical support to customer contact center staff.
- **Technology (21 FTE)**—Develops and maintains the internal and external electronic applications used by the UI Program to process and pay benefits claims. This includes maintaining the Colorado Unemployment Benefits System (CUBS), which is the UI Program’s main database, in conjunction with the Governor’s Office of Information Technology. CUBS collects and stores claimant information, automatically flags certain eligibility issues, and processes claims payments. Staff rely on CUBS as the primary source of information about claims and use the system to identify possible eligibility issues and ensure that payments are timely.
- **Internet Operations (2 FTE)**—Maintains the UI Program’s website that claimants use to access information on their claims, apply for benefits, modify claim information, or acquire general information to learn how the UI Program works.
- **Employer Services (86 FTE)**—Determines and collects employer premiums, and collects wage reports.

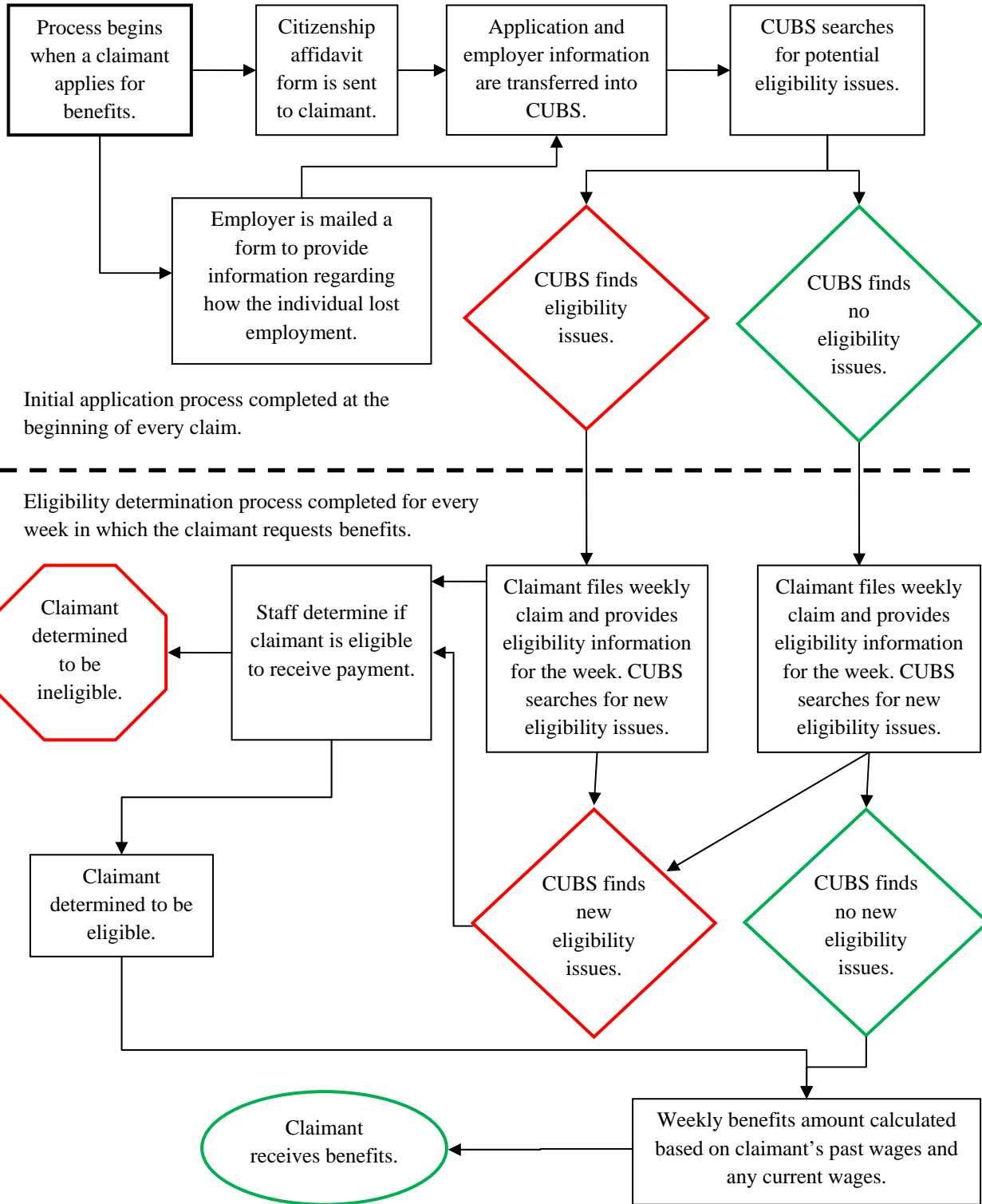
During our audit, the UI Program was in the process of evaluating its organizational structure. In August 2011, after we completed the fieldwork stage of the audit, the UI Program announced a major program reorganization plan. As a result, the number of operating branches was reduced from eight to four, which now include (1) Claimant Services; (2) Employer Services; (3) Appeals; and (4) Policy, Integrity, and Program Support. The reorganization was designed to better align organizational activities, reduce operating costs, improve

communication, and increase the number of staff delivering direct services to the public.

Claims Processing

The UI Program is responsible for ensuring that claimants meet eligibility requirements and are paid in a timely manner. To receive benefits, claimants must complete a two-part process. First, claimants must complete an initial new claims application, which the UI Program uses to collect claimants' personal information and determine whether the claimants earned wages in Colorado and lost employment through no fault of their own. Second, claimants must file requests for benefits payments on a biweekly basis. Because several eligibility requirements, such as whether the person was able to and available for work and looked for work, can change on a weekly basis, claimants must provide this information for every week when they file a request for benefits payment, and the UI Program must determine eligibility for each week separately. Though there are some exceptions, the following chart shows the typical process that the UI Program uses to review benefits claims, determine eligibility, and pay claimants. The top half of the chart shows the processes that occur once, when claimants initially apply for benefits, and the bottom half shows the process used to determine eligibility for each week that the claimants request benefits payments.

UI Program Benefits Application Process



Source: Office of the State Auditor's review of the UI Program's application process.

As shown, unemployed workers initially apply for UI benefits using an online application or by calling the UI Program's call center. The application requires claimants to provide their recent work history, the reason they lost employment from each employer, information on their current availability and ability to work, and citizenship status. Once claimants submit the application, the UI Program sends the claimants' most recent and base period employers a form to provide information explaining why the individuals lost employment (e.g., fired, quit, or no work available). The UI Program also sends the claimants an affidavit to provide identifying information and to attest to their legal presence in the United States. If a claimant indicates that he or she is not a U.S. citizen, the UI Program requires the claimant to provide an alien registration number, which the program verifies using a federal immigration database. Information from the online application and forms is then transferred to CUBS, where it is processed electronically to identify any potential eligibility issues, such as the claimant not earning adequate wages or being terminated from employment for good cause. If issues exist, CUBS flags the claim and holds benefits payments until the issues are resolved.

After submitting an initial application, claimants cannot receive benefits until they file a weekly claim requesting benefits. To file a weekly claim, the claimants must complete a form online or provide information through an automated telephone filing system. In each case, the claimants must provide information related to each week for which they are claiming unemployment, including whether they were able and available to work, registered at a workforce center, conducted a job search, or earned any wages during the week. The claimants must continue to file every 2 weeks, providing information for each week claimed, for the life of the benefits claims. This information is also entered into CUBS, and if any new eligibility issues arise based on the claimants' responses, CUBS will place a hold on the claims until the issues are resolved.

A hold may be placed on a claim if the claimant or employer reports information that could make the claimant ineligible for benefits or affect the amount of benefits the claimant can receive. If a hold is placed on the claim, which occurs in about 94 percent of claims, the claim is forwarded to UI staff for further review. UI staff review relevant information related to the claim, contact the claimant and his or her previous employers to obtain detailed information regarding the claim, and apply applicable laws to reach an eligibility decision on the claim. If the claimant is found to be eligible for benefits, he or she will be paid, and each employer for which the claimant lost employment through no fault of his or her own during the base period will have its premium rate adjusted accordingly, with employers that lay off more employees over time generally having to pay higher premiums. If the claimant or employer disagrees with the decision, either may file an appeal.

Once a claimant has filed for weekly benefits and any holds have been removed from the claim, the UI Program will pay the claimant according to a statutorily determined payment formula that is based on the wages earned by the claimant during his or her base period. As required by statute (Section 8-73-102, C.R.S.), the UI Program determines weekly benefits amounts through one of two formulas:

- 60 percent of one twenty-sixth (1/26) of the highest wages earned in two consecutive calendar quarters during the base period. Under this formula, the benefits amount is typically 60 percent of 1-week's wages if wages were constant during the entire 6-month base period.
- 50 percent of one fifty-second (1/52) of the total base period wages. Under this formula, the benefits amount is typically 50 percent of 1-week's wages if wages were constant during the 1-year period.

The Department uses the formula that gives the claimant the higher weekly benefits amount, without exceeding the maximum benefits amount. The weekly maximum benefits amount is adjusted annually based on the State's average weekly wage earned and was \$489 during Calendar Year 2010. During the same year, Colorado paid claimants an average weekly benefits amount of \$346 and Colorado workers earned, on average, weekly wages of \$910.

Fiscal Overview

Funding for UI benefits payments comes from premiums paid by Colorado employers, which employers pay in addition to federal unemployment taxes. The UI Program bases employers' premiums on the number of workers they have hired and laid off in recent years. Employer premiums are deposited in the State's UI Trust Fund, which is held by the U.S. Treasury. Employers also pay federal unemployment taxes, which are deposited into a separate federal account and can be used to pay extended benefits during periods of high unemployment.

From Calendar Years 2006 through 2010, the amount of benefits the UI Program paid to claimants increased significantly. As shown in the following table, total benefits paid increased from about \$298 million during Calendar Year 2006 to nearly \$2.4 billion in 2010, an increase of about 700 percent. In addition to the large increase in the number of claims filed, total payments increased due to the authorization of federal and state extended benefits, which allows claimants to receive benefits for up to 99 weeks, instead of the normal 26 weeks. Although federal extended benefits are administered by Colorado's UI Program, they are not paid from the State's UI Trust Fund account.

Unemployment Insurance Payments, Calendar Years 2006 Through 2010¹ (Dollars in Millions)					
2006	2007	2008	2009	2010	Percentage Change
\$297.6	\$314.1	\$515.1	\$1,875.6	\$2,374.2	698%
Source: Colorado Department of Labor and Employment. ¹ Includes both regular and state and federal extended benefits payments.					

As discussed in our *Evaluation of the Unemployment Insurance Trust Fund* (June 2010), due to the high volume of benefits payments and declining premium collections in recent years, Colorado's UI Trust Fund has become insolvent. As a result, the State must pay benefits claims using federal funds, which must be repaid. As of September 2011, the State's UI Trust Fund deficit was \$289 million. During the 2011 Legislative Session, the General Assembly passed House Bill 11-1288, which makes changes to the calculation of employer premiums to address trust fund solvency issues.

The UI Trust Fund cannot be used to pay the program's administrative costs. Instead, as shown in the table below, federal grants funded \$40.7 million (83 percent) of the \$49.2 million that the UI Program used to administer the program during Federal Fiscal Year 2011. In addition to federal funding, the UI Program receives cash funds generated by statutory fees paid by employers based on their payrolls. These fees are deposited in the Employer Support Fund and the UI Revenue Fund and can be used to fund the administrative costs of the program. The UI Program also received temporary increases in administrative funding in Federal Fiscal Years 2009 and 2010 from the federal American Recovery and Reinvestment Act of 2009 (Recovery Act). Recovery Act funds allowed the UI Program to increase staffing to help accommodate the large influx of UI claims caused by the recent economic recession. However, Recovery Act funds have been exhausted. Overall, the UI Program experienced a 31 percent decrease in total funding for administrative costs from Federal Fiscal Years 2010 to 2011.

**Unemployment Insurance Program
Revenue and Full-Time-Equivalent Staff
Federal Fiscal Years 2008 Through 2011
(Dollars in Millions)**

	2008	2009	2010	2011	Percentage Change
Federal Grant Funds	\$ 35.3	\$ 50.6	\$ 53.1 ¹	\$ 40.7 ¹	15%
Federal Recovery Act Funds	\$ 0.0	\$ 1.1	\$ 7.5	\$ 0.0	-
Cash Funds	\$ 7.4	\$ 9.9	\$ 10.1	\$ 8.6	16%
Total	\$ 42.7	\$ 61.6	\$ 70.7	\$ 49.3	15%
FTE ²	440.1	493.6	660.0	586.0 ³	33%

Source: Colorado Department of Labor and Employment.
¹ Estimates provided by the Colorado Department of Labor and Employment.
² FTE levels provided for state fiscal years except as noted.
³ FTE levels as of August 2011.

Audit Scope and Methodology

We conducted this performance audit pursuant to Section 2-3-103, C.R.S., which authorizes the State Auditor to conduct audits of all departments, institutions, and agencies of state government. Audit work was performed from September 2010 through May 2011. We acknowledge the cooperation and assistance provided by staff at the Department of Labor and Employment.

The objective of the audit was to determine if the Department has sufficient controls for ensuring that the UI Program makes timely and accurate UI benefits payments to eligible claimants. Specifically, we evaluated whether the UI Program has:

- Implemented sufficient procedures for verifying that UI claimants are legally present in the United States, as required by House Bill 06S-1023.
- Established adequate controls over the claims application process to prevent improper benefits payments.
- Instituted procedures to ensure that claims review processes are fair, timely, and accurate and in accordance with state and federal laws.
- Established effective mechanisms for identifying and recovering improper payments.

To accomplish our audit objectives, we interviewed and observed program staff, reviewed the program's policies and procedures, analyzed program data, and mapped out the program's processes to identify opportunities to increase efficiency and effectiveness. Our audit work did not include a review of the methods the UI Program employs to charge and collect UI premiums from Colorado employers or of the claims appeals process.

Our testing of eligibility controls included a review of three samples. First, we sampled 56,000 claimants paid during the last week of December 2010 to determine if the Department complied with House Bill 06S-1023's requirements. We took our sample from the last week of December 2010 to ensure that the sample contained as many active claimants as possible. We subsequently verified that this week of claims payments did not exhibit different characteristics than other weeks' claims payments. From our original sample of 56,000 claimants, we then selected a random, statistically valid sample of 213 claimants to perform additional testing to determine whether claimants provided identification acceptable under House Bill 06S-1023. Our sample was designed to allow the extrapolation of the results to all claimants paid during Calendar Year 2010. Finally, we randomly selected 100 claimants who were paid benefits in December 2010 to determine if they had returned the paper affidavit form attesting to their lawful presence in the country.

We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Lawful Presence Controls

Chapter 2

As discussed in Chapter 1, Unemployment Insurance Program (UI Program) claimants must meet several requirements to be eligible to receive benefits. In this chapter, we discuss the requirement that claimants be lawfully present in the United States. House Bill 06S-1023 (Section 24-76.5-101, et seq., C.R.S.) and federal law prohibit the payment of public benefits, including unemployment insurance (UI) benefits, to individuals who are not lawfully present in the United States. We reviewed the UI Program's controls designed to ensure that only lawfully present individuals receive UI benefits and assessed whether these controls are effective and comply with state and federal laws. Specifically, we observed and interviewed staff responsible for verifying lawful presence, reviewed program policies and procedures, evaluated system controls, and analyzed claims data. Overall, we found that the UI Program's application procedures do not always ensure that claimants comply with state and federal laws designed to verify that individuals applying for public benefits are lawfully present in the United States.

Both state and federal laws provide specific procedures that state agencies providing public benefits must follow to confirm that claimants are lawfully present. As shown in the table below, not all of House Bill 06S-1023's provisions are required by federal law. However, federal laws allow states to develop their own procedures to affirm lawful presence as long as they do not conflict with federal law. Therefore, all of the following requirements apply to Colorado's UI Program.

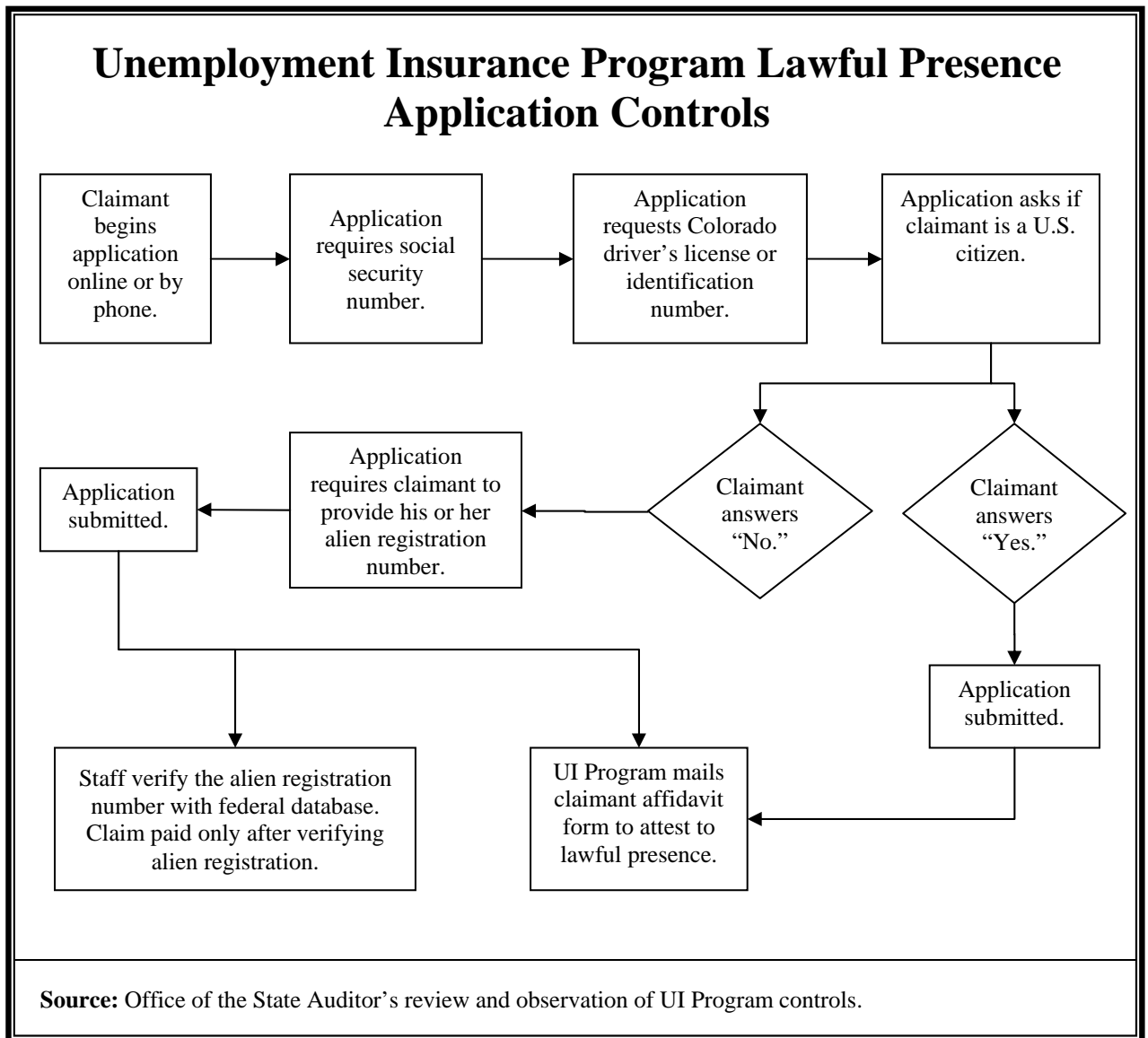
Unemployment Insurance Program State and Federal Lawful Presence Requirements		
Requirement	State Law (House Bill 06S-1023)	Federal Law
Claimants must provide social security numbers.		X
Claimants must indicate whether they are U.S. citizens.	X	X
Claimants must attest to being lawfully present.	X	X
State agencies must collect and verify alien registration numbers from claimants who indicate that they are not U.S. citizens.	X	X
Claimants must provide one of several acceptable forms of identification, such as a valid Colorado driver's license or identification card, military or coast guard identification card, Native American tribal document, or other documents acceptable under Department of Revenue rules.	X	
Source: Section 24-76.5-101, et seq., C.R.S., and 8 USC 1611.		

In 2006, the Colorado Office of the Attorney General provided all state agencies with informal guidance to assist agencies in interpreting and implementing the requirements of House Bill 06S-1023. According to this guidance, agencies are not required to collect the identification documentation, such as a Colorado driver's license, from claimants in person. Instead, agencies may develop alternate procedures for collecting the identification as long as they have a process for verifying that the person applying for benefits is the rightful owner of the identification document used to show lawful presence. To assist agencies in verifying the validity of Colorado driver's licenses and identification cards, the Department of Revenue (DOR) created an online system, available to all state agencies, that allows agency staff to immediately determine whether an identification document was issued to the same person applying for benefits, and whether the identification document is currently valid (i.e., not expired, suspended, revoked, or cancelled). In addition, the guidance provided by the Office of the Attorney General indicated that claimants may submit affidavits affirming legal presence through online application systems as long as the benefits application requires the claimants to provide an electronic signature.

Based on our review of House Bill 06S-1023 and guidance provided by the Office of the Attorney General, because the UI Program uses an online application form and does not collect identification documentation in person, it must have procedures in place to verify that each claimant is the rightful owner of the identification document he or she uses to show lawful presence.

We reviewed the UI Program's procedures to ensure that claimants are legally present, as required by state and federal laws. As discussed in Chapter 1, claimants can apply for benefits online or over the phone. As shown in the

flowchart below, when claimants apply for benefits, the UI Program’s application process requires that they provide a social security number and requests their Colorado driver’s license or identification card number. In addition, the application asks claimants whether they are U.S. citizens. If the claimants indicate that they are not U.S. citizens, the application requires that they provide their alien registration number, and a hold is placed on the claim until UI staff verify the alien registration number using a federal database. After the claimants submit the application, the UI Program mails the claimants an affidavit to affirm citizenship status and to provide additional identification information.



During the audit, we identified two control weaknesses that impact the UI Program’s ability to ensure that claimants are legally present. Specifically, the UI

Program does not require applicants to provide an attestation affirming legal presence, and the UI Program's procedures do not ensure that claimants provide valid identification, as required. We discuss these concerns below.

Attestation Controls

As discussed above, House Bill 06S-1023 and federal law require claimants to affirm that they are legally present in the United States as a condition of receiving benefits. The UI Program has two procedures that are intended to ensure that claimants attest to being legally present in the United States. First, the UI Program requests that claimants provide a signed affidavit form attesting to their legal presence in the United States and, second, the program requires that claimants answer a question regarding their citizenship during the application process. Overall, we found that most claimants attested to being legally present in accordance with House Bill 06S-1023 and federal law; however, we found weaknesses in both of the UI Program's procedures that could allow claimants to receive UI benefits without affirming their legal presence in the United States. Further, we found that the procedures are duplicative and that with changes to its application, the UI Program could reduce staff workload while still ensuring that all claimants meet House Bill 06S-1023 and federal requirements.

Affidavit Form. During the audit, we reviewed a sample of 100 claimant files from claims paid during December 2010 to determine whether each claimant had submitted the affidavit form attesting to legal presence. We found that 98 of the 100 claimants sampled returned the form. Thus, it appears that most claimants are meeting the requirements of House Bill 06S-1023 and federal law to affirm their legal presence in the United States. However, the UI Program's controls over the affidavit process do not ensure that all claimants affirm legal presence. Historically, the UI Program did not pay benefits to claimants until they returned the signed affidavit affirming their legal presence in the United States. If claimants did not return the affidavit forms, the UI Program would place a hold on the claims, and UI staff would follow up with the claimants to obtain the affidavits. However, in February 2009, UI Program management instructed staff to no longer place holds on claims when claimants do not return the affidavit. Although the UI Program has continued to indicate to claimants since February 2009 that the affidavit form is required, claimants can now receive UI benefits even if they do not return a signed affidavit. Therefore, the UI Program cannot rely on the current procedure to ensure that all claimants affirm legal presence.

Application Citizenship Question. According to informal guidance provided by the Office of the Attorney General, agencies can comply with House Bill 06S-1023's affidavit requirement through online applications as long as the application requires claimants to affirm their lawful presence and complete an electronic signature. The UI Program's application during the period we reviewed asked

claimants if they were U.S. citizens and included an attestation that was intended to require claimants to affirm that all the information they provided on the application, including their citizenship status, was true. However, the UI Program's application did not ensure that claimants affirmed their lawful presence. Specifically, if claimants indicated that they were not a U.S. citizen, they were asked to provide an alien verification number but were never required to positively affirm their legal presence, as required by both House Bill 06S-1023 and federal law. In addition, the attestation language intended to require claimants to affirm that the information they provided on the application is true contained ambiguous language. Specifically, the two responses available to applicants following the attestation language read, "Yes, I want to sign up for unemployment" or "No, I do not want to sign up for unemployment." Thus, it was not clear that the claimants were actually affirming that all information they provided was true and not simply stating that they wanted to apply for benefits.

Following our review, the UI Program changed the language in its application. However, we found that, as of August 2011, the new language in the application still does not require the claimants to directly state that they are lawfully present. Specifically, the application requires claimants to mark a checkbox affirming their understanding that they "*must* be a U.S. citizen or legal permanent resident or be lawfully present in the United States according to federal law (emphasis added)." Thus, the claimants appear to be affirming that they understand the legal requirement, but not that they are actually legally present.

Finally, although the UI Program must have a process in place requiring claimants to affirm their lawful presence to comply with state and federal laws, we found that the affidavit and application procedures described above are duplicative. Specifically, both procedures are intended to collect information from claimants about their citizenship status and to ensure that claimants affirm their legal presence in the United States. Therefore, we believe that both procedures are not necessary, provided that the UI Program takes steps to address the problems we discussed above. As a result, the UI Program has an opportunity to reduce its current workload. For example, currently UI Program staff must scan each affidavit form received from claimants and add the documents to claimants' files. By contrast, if claimants were to affirm citizenship online or during a recorded phone statement when they apply for benefits, the UI Program would have an electronic record of the affirmation without having to dedicate staff time to processing affidavit forms. According to House Bill 06S-1023, agencies may adopt alternative procedures to collect an affidavit form, as long as the alternative procedures are no less stringent. Further, as previously mentioned, informal guidance provided by the Office of the Attorney General indicates that collecting affidavits electronically would be an acceptable alternative. Thus, if the UI Program made changes to the application language to address the problems we identified above, the UI Program would no longer need to request that claimants send in signed affidavits, which could reduce workload. We discuss this reduction

in workload further, in conjunction with other opportunities to reduce the number of forms processed by the UI Program, in Recommendation No. 3.

Recommendation No. 1:

The Department of Labor and Employment (the Department) should ensure that unemployment insurance claimants meet the requirements of House Bill 06S-1023 and federal law for attesting to their lawful presence in the United States by:

- a. Changing the language in the Unemployment Insurance Program application form so that claimants are clearly affirming through the application that they are legally present in the United States.
- b. Requiring all applicants to affirm legal presence before receiving benefits.
- c. Eliminating the use of the current paper affidavit form for affirming legal presence.

Department of Labor and Employment Response:

- a. Agree. Implementation date: December 2011.

We will tighten the language on the current online initial claim application. Wording will clearly demonstrate that claimants not only affirm that they understand the legal requirement, but also that they attest that they are actually legally present.

- b. Agree. Implementation date: December 2011.

Most claimants file online, and they will be required to affirm lawful presence in order to complete the online application. All claimants who file over the telephone will attest to their legal presence and those responses are already being recorded.

- c. Partially agree. Implementation date: December 2011.

The Department will mail the affirmation of legal presence form to claimants who file a claim over the telephone to ensure the integrity of the telephone recordings and because recordings are stored for only 10 to 11 months due to capacity issues. The call center script will be changed to be more specific. We will eliminate sending forms to those who apply online once our language has been changed.

Identification Controls

When claimants apply for benefits, the UI Program requires that they enter a nine-digit Colorado driver's license or identification number. To determine whether claimants provided valid driver's license or identification numbers, as required by House Bill 06S-1023, we reviewed the driver's license numbers on file for a sample of about 56,000 paid claimants from the last week of December 2010, which represents about 20 percent of the 277,000 total claimants who received unemployment benefits in Calendar Year 2010. We found that about 4,800 (9 percent) paid claimants had provided clearly invalid numbers, such as "000000000." Our results are consistent with similar testing conducted by the UI Program. For example, during Calendar Years 2006 through 2009, the UI Program found that about 6 percent of the claimants it sampled did not provide a valid identification number.

In addition, we selected a statistically valid sample of 213 claimants, drawn from our original sample of 56,000, to determine how many of these claimants had provided or could provide acceptable identification under the requirements of House Bill 06S-1023. We chose a statistically valid sample so that we could extrapolate our error rate to the entire population of Calendar Year 2010 claimants.

We tested whether the 213 claimants in our sample had complied with House Bill 06S-1023's identification requirements by first matching the driver's license or Colorado identification number they provided on their UI Program claim application to DOR records. If DOR did not have a record of the claimants' having been issued the number they provided to the UI Program, or if the number provided to the UI program was for an invalid license and DOR had no other record of valid identification, we then requested that the UI Program follow up with the claimants. Specifically, the UI Program asked each of these claimants to provide a photocopy of one of the forms of identification acceptable under House Bill 06S-1023. At the completion of this process, we were unable to establish any record of acceptable identification for 25 of the 213 claimants in our sample. Because our sample was statistically valid, we were able to extrapolate our findings to the entire Calendar Year 2010 population. Based on this process, we estimate that in Calendar Year 2010, as many as 8,900 (3 percent) of the 277,000 total paid claimants did not or could not provide acceptable documentation to comply with House Bill 06S-1023 requirements. We were also able to estimate that the UI Program paid about \$60 million, or about 3 percent of the \$2.4 billion in state and extended UI benefits paid in Calendar Year 2010, to these claimants who did not or could not meet House Bill 06S-1023's identification requirements and, therefore, should not have received benefits.

It is important to note that we could not conclude whether the claimants who were unable to fulfill House Bill 06S-1023's requirements were lawfully present in the United States. Specifically, the inability to provide the identification documents required by House Bill 06S-1023 does not, by itself, prove that an individual is in the United States illegally. Ultimately, lawful presence is determined by federal law and administrative proceedings.

We identified three weaknesses in the UI Program's processes that increase the risk that claimants will not provide the identification documentation required by House Bill 06S-1023 before receiving benefits, as described below.

- **The UI Program has no mechanism to flag claims when claimants provide invalid identification numbers.** The online application system is not programmed to flag claims when claimants provide clearly invalid numbers, such as "000000000," or other numbers that do not conform with DOR's numbering system for Colorado driver's licenses and identification cards. Further, UI Program staff responsible for taking claims applications over the phone ask for the claimants' Colorado driver's license or identification numbers as part of the benefits application process. However, if the claimants indicate that they do not have a Colorado identification number available, UI Program management instruct agents to enter "000000000" or "999999999" into the identification field and allow claims to move forward without requiring any identification. These claims are not flagged for later follow up and review to ensure that the claimants provide acceptable identification.
- **The UI Program does not verify that the Colorado identification numbers provided by claimants correspond with valid identification documents on file with DOR.** As a result, the UI Program cannot ensure that claimants do not provide fictitious or invalid numbers or numbers for identification documents that do not belong to them.
- **The UI application does not provide instructions for applicants who do not have a Colorado driver's license or identification card.** Although House Bill 06S-1023 and DOR regulations allow applicants for public benefits to provide several forms of identification other than a Colorado driver's license or identification card, during our review the application did not provide a method for applicants to provide these documents. This is particularly problematic for out-of-state applicants, who can apply for benefits in Colorado as long as they worked in Colorado during the base period that determines UI eligibility. In Calendar Year 2010, about 6 percent of Colorado's UI claimants resided in other states, but these claimants have not been able to provide out-of-state identification on the application and may have entered invalid

identification numbers, such as “000000000,” on their applications to move their claims forward. Following our review, the UI Program changed its application to allow claimants to indicate that they do not have a Colorado driver’s license or identification card. However, there is still no procedure in place to follow up with these applicants to collect and verify their alternative identification information.

UI Program management indicated that they do not currently verify identification provided by claimants and did not deny any claimants benefits based on the verifications they conducted on samples of claims from Calendar Years 2006 through 2009. According to management, the UI Program does not conduct verifications because management do not believe that this procedure is required by House Bill 06S-1023 and are concerned that doing so would be time consuming and could place an undue burden on claimants, which would violate federal law. Further, management are concerned that some of the claimants’ driver’s license numbers may be invalid for reasons not related to lawful presence (e.g., revoked or suspended license) and that these reasons might not be appropriate grounds to deny UI benefits.

We question whether the UI Program’s current procedures can accomplish the purpose of House Bill 06S-1023 without verifying that the Colorado identification numbers provided are valid. As previously mentioned, according to guidance provided by the Office of the Attorney General, agencies must have procedures to ensure that the person applying for benefits is the rightful owner of the document he or she presents to confirm lawful presence. Further, DOR regulations indicate that any Colorado identification used to confirm lawful presence must be current (i.e., not invalid). Although UI Program management’s concerns regarding the time it would take to verify identification documents are understandable, it is important that the UI Program take steps necessary to comply with all requirements related to the verification of lawful presence. If necessary, the UI Program should seek legal guidance to specifically determine what application controls it should have in place to meet House Bill 06S-1023 requirements.

Recommendation No. 2:

The Department of Labor and Employment (the Department) should ensure that unemployment insurance (UI) claimants meet the requirements of House Bill 06S-1023 and federal law for affirming their lawful presence in the United States by:

- a. Requiring all claimants to provide the number of their valid Colorado driver’s license or Colorado identification card, or a copy of other documents acceptable under House Bill 06S-1023, before paying benefits.

In addition, the Department should establish a process to collect acceptable forms of identification other than a Colorado driver's license or identification card and provide claimants with instructions on the application for submitting this documentation.

- b. Establishing procedures to verify that the person applying for UI benefits is the same person depicted by the identification number or document that the person provides on his or her application. These procedures could include verifying all Colorado driver's license and identification numbers provided by claimants using Department of Revenue records. If necessary, the Department should seek legal counsel from the Office of the Attorney General to clarify the procedures that the Unemployment Insurance Program must follow to satisfy House Bill 06S-1023 while complying with federal requirements.

Department of Labor and Employment Response:

- a. Agree. Implementation date: December 2012.

The Department will require all claimants to provide the number of their valid Colorado driver's license or Colorado identification card, or a copy of other documents acceptable under House Bill 06S-1023, before paying benefits. The Department will develop a process and an IT plan that will include mechanisms for flagging claims with invalid identification numbers for follow up and instructions for applicants who do not have a Colorado driver's license or identification card. The Department is concerned that federal guidelines for first pay promptness will be negatively impacted for claimants who are legally present but do not supply the required documentation in a timely manner.

- b. Agree. Implementation date: December 2012.

Working with the Department of Revenue, we will establish procedures to verify that the person applying for benefits is the same person depicted by the identification number or document that the person provides on his or her application. We will work with the Department of Revenue to develop and/or enhance the automated mass interface between the two departments' IT systems.

Benefits Claims Processing and Review

Chapter 3

As discussed in Chapter 1, Unemployment Insurance Program (UI Program) staff are responsible for three key functions related to the payment of unemployment insurance (UI) benefits: (1) reviewing claims for eligibility and paying benefits in a timely manner, (2) recovering funds from claimants who should not have been paid benefits, and (3) providing customer service to claimants who have questions or who may have had holds placed on their claims that prevent them from receiving benefits. During the audit, we assessed the UI Program's performance in each of these areas. Specifically, we observed and interviewed staff, reviewed claims and call center data, and compared the program's claims performance to applicable U.S. Department of Labor (USDOL) standards.

As discussed in this chapter, we found problems in each of the three key functional areas we reviewed. For example, we found that the UI Program has not met USDOL standards for reviewing claims and detecting overpayments. In addition, the program has had difficulty providing claimants with adequate access to customer service through its call center. Together, these problems increase the risk of improper decisions about whether claimants should receive benefits, possibly delay benefits payments, and reduce the program's ability to recover overpayments. Further, when claimants do not have access to customer service, they may not be able to file claims or receive help with questions or holds that are placed on their claims.

UI Program management stated that insufficient staffing to meet a substantial increase in workload is the major cause for the problems identified during our audit. As shown in the following table, the number of benefits weeks claimed per UI Program staff member has increased about 92 percent from Fiscal Years 2008 to 2010, which has led to substantial increases in workload for staff responsible for reviewing claims, identifying improper payments, and providing customer service.

Comparison of Unemployment Insurance Program (UI Program) Full-Time-Equivalent (FTE) Staff to Claims Volume State Fiscal Years 2008 Through 2010				
	2008	2009	2010	Percentage Change
Weeks Unemployment Claimed	1,280,000	2,660,000	3,680,000	188%
UI Program FTE	440.1	493.6	660.0	50%
Weeks Claimed Per FTE	2,908	5,389	5,576	92%
Source: Office of the State Auditor's analysis of Unemployment Insurance Program data.				

In addition to a lack of staff to accommodate the increase in claims volume, we also found that the UI Program's processes for processing claims and identifying overpayments are less efficient due to limitations of the Colorado Unemployment Benefits System (CUBS). CUBS was created in 1986 and, according to UI Program management, it does not have the capabilities of modern systems. As a result, UI Program staff must manually account for some claims, necessary programming changes are labor-intensive, and the UI Program's process for reviewing claims takes additional time. The Department began a project in 1999 to replace its entire UI Program computer system, including CUBS, but the project was halted before completion in 2005 due to problems with the contractor. We reviewed this project in our *Genesis Project Memo* (August 2007) and *SUPER System Project Recovery Assessment Memo* (October 2006). According to current management, the UI Program has lacked the funding necessary to replace the system in recent years. However, in September 2011, the UI Program entered a consortium of four states to make improvements to its information technology systems. The federal government has committed \$72 million to the consortium as a whole to help fund the project, which is expected to take several years to complete. According to the Department, the UI Program will need to obtain additional funds to finish its UI Program system replacement.

We recognize that staffing levels and CUBS limitations have made it more difficult for the UI Program to keep up with workload, as claims volume has increased to unprecedented levels without similar increases in staff or improvements to CUBS' capabilities. However, during the audit we identified several opportunities for the UI Program to increase efficiency by eliminating labor-intensive processes and reallocating staff. As a result, we estimate that about 38.6 full-time-equivalent (FTE) staff, or 16 percent of the 239 nonmanagement FTE assigned at the time of our audit to the three key benefits payment functions we reviewed, are not being used as efficiently as possible. We also estimate that these 38.6 FTE account for about \$2.1 million in salary and benefits costs annually, costs that could be reallocated within the UI Program. We also identified several instances in which the UI Program could make changes to CUBS that would have a significant impact on the UI Program's productivity.

We discuss these problems and opportunities to improve efficiency in the following three sections. In the first section, we discuss the eligibility review process, including the UI Program's procedures for collecting information regarding claims and staff performance in reviewing claims. In the second section, we provide our review of the UI Program's efforts to identify and recover overpayments. In the final section, we assess the customer service provided by the UI Program to claimants through its customer call center.

Eligibility Review

As mentioned in Chapter 1, the UI Program relies on several procedures to ensure that claimants are initially eligible for benefits and continue to be eligible during each week that they remain unemployed and request benefits. First, the UI Program collects information regarding claimants' eligibility for benefits through the initial application, additional forms mailed to the claimants and each of the claimants' base period and most recent employers, and the continued claims filings that claimants complete for each week that they claim benefits. Second, CUBS processes the information and flags claims that have potential eligibility issues. Third, UI Program staff manually review claims with potential eligibility issues, issue decisions regarding claimants' eligibility, and pay eligible claims.

We reviewed each step in the initial and continuing eligibility determination process and compared the UI Program's performance in making eligibility decisions and timely benefits payments to USDOL performance standards. As discussed in the following sections, we identified several opportunities to increase the efficiency and effectiveness of the eligibility process, including reducing the number of forms used to collect information, increasing the amount of information collected online, and strengthening controls over work search requirements. In addition, we found that the UI Program has not met USDOL standards for claims review quality and timeliness and identified several opportunities to improve this process. We discuss these concerns below.

Benefits Application Process

We found that the UI Program could improve the efficiency of its application process and strengthen application controls designed to prevent overpayments by reducing its use of forms to collect information and increasing the amount of information it collects online from employers and claimants.

Eligibility Forms

As previously discussed, the UI Program requires all claimants to complete an online application or have UI Program staff complete the application for them

over the phone. On the application, claimants must provide personal information, information regarding their citizenship status, and information related to their employment and wage history. However, the online application form does not collect all the information from claimants that the UI Program needs to determine eligibility and calculate benefits payments. To collect this additional information, the UI Program uses several forms during the application process, including three frequently used forms described in the table below.

Unemployment Insurance Program Selected Eligibility Forms	
Type of Form	Description
Request for Facts—Employee	Sent to claimants to request additional information about why they no longer work for an employer; the duration of employment; their rate of pay; and any other types of compensation they may have received from the employer, such as vacation, severance, or pension payments. Only sent to claimants when this information is not provided on the initial online application or when the claimants apply over the phone.
Request for Facts—Employer	Sent to all of the claimants' base period employers (i.e., employers for whom the claimants have worked in the first four completed calendar quarters within the last five completed calendar quarter periods) and most recent employers to request information about why the claimants no longer work for the employers, the duration of employment, the rate of pay during employment, and any other types of compensation the employers may have paid to the claimants. One large payroll company currently submits this information electronically and does not receive the form.
Verification of Personal Information (Affidavit Form)	As discussed in Chapter 2, this form is sent to all claimants to verify personal information, obtain attestations of the claimants' being lawfully present in the United States, and collect additional identification information.
Source: Office of the State Auditor's review of Unemployment Insurance Program forms.	

As discussed below, we found that the UI Program could lessen workload by eliminating or reducing the use of all three of the forms listed in the table above and instead collecting the information online.

- **Request for Facts—Employee Form**—As of October 2011, the UI Program had implemented changes to its online application to collect all of the information currently collected by the “Request for Facts—Employee” form when claimants apply online. However, when claimants apply by phone, the program still uses the form to collect information regarding claimants’ separation from employment. If separation information was collected over the phone along with other application information, the UI Program could significantly reduce the need to use the form.
- **Request for Facts—Employer Form**—We found that other states, such as Florida, South Carolina, and Texas, have UI benefits filing systems on their websites that allow all employers to report the information that Colorado’s UI Program collects from employers through the “Request for Facts—Employer” form. In addition, USDOL has worked with states to develop the State Information Data Exchange System (SIDES). SIDES is a web-based system that allows employers to provide relevant information about claimants to state UI programs. USDOL considers the implementation of SIDES as a core strategy for reducing improper UI payments. Currently, only one company submits claimant information electronically to Colorado’s UI Program. If the UI Program expanded the use of SIDES or created another online form that all employers could use to provide claimant information to the UI Program, it could eliminate the need to process this form.
- **Verification of Personal Information (Affidavit Form)**—As discussed in Chapter 2, Recommendation No. 1, the “Verification of Personal Information” form could be eliminated if the UI Program modified its application to enable claimants to electronically attest to being lawfully present in the United States.

By eliminating or reducing the use of the three forms discussed above, the UI Program could significantly reduce staff workload. Currently, UI Program staff must sort and scan each form, manually enter the information on the form into CUBS, and add the form to the claimants’ files. At the time of our review, the UI Program had 13 FTE dedicated to scanning and processing these forms and other correspondence received by claimants and employers. According to UI Program management, these three forms represent about 80 percent of the workload for these 13 FTE. Therefore, we estimate that if the UI program stopped using the two forms and the affidavit and instead obtained the information provided on the forms electronically, the UI Program could reallocate 10.4 FTE, whose salary and benefits totaled about \$487,000 in Fiscal Year 2011, to other program functions.

Layoff Information

Currently, the UI Program's initial application provides a space for claimants to provide a description, in their own words, of why they lost employment if they indicate that they were fired or quit. UI Program staff use this additional information when determining the claimants' eligibility. However, we found that when claimants indicate that they lost employment because of a layoff, the claimants are not given an opportunity to provide additional information about the layoff that would allow UI Program staff reviewing the claims to determine if the claimants truly were laid off and, therefore, are eligible for benefits. In cases in which employers dispute claimants' assertions about being laid off, UI Program staff must contact the claimants to obtain more information about the circumstances leading to the claimants' losing their jobs, which takes additional time. Thus, by adding a space in the initial application to allow claimants to provide more information in their own words when they report being laid off, the UI Program could reduce the processing time for some claims. Due to CUBS limitations, the UI Program did not have information showing the number of claims in which claimants' reported layoffs were disputed by employers and, therefore, we could not measure the potential effect of this change.

Work Search Information

Claimants must look for work during each week in which they receive UI benefits to remain eligible for the program. According to program rules, claimants generally must make contact with at least five employers each week for the purposes of finding employment. In addition, claimants must keep documentation of each contact they make, although currently most claimants are never asked to provide this documentation. The claimants must then report whether they completed a work search for the week when they file for continued benefits. If the claimants fail to conduct the work searches, then the claimants are not eligible for benefits for the week.

We found that the UI Program could improve the information it collects from claimants about their work searches, which could reduce the amount of UI overpayments related to work searches. Currently, claimants can file for continued benefits through either an online form or through an automated phone system. When claimants file for continued benefits online, they are asked, "During this week, did you look for a job?" However, the form never asks the claimants how many job contacts they made or for any detail about the employers they contacted. Thus, if claimants made one job contact during the week, they could truthfully answer "yes" on the online form and receive benefits, even though they did not complete the UI Program's work search requirements. In addition, claimants who file for continued benefits over the phone are asked only

to confirm the number of job contacts they made and are not required to provide any details about the employers contacted.

We found that claimants who do not search for work or do not document their work search as required are currently paid a substantial amount in UI benefits for which they are not eligible. The UI Program performs federally required reviews on a quarterly basis using statistical samples to estimate the amount of state benefits paid to ineligible claimants and determine the causes of the overpayments. According to these reviews, during Calendar Year 2010, the UI Program made an estimated \$169 million (19 percent of total state benefits payments) in overpayments. Of this amount, \$83 million (49 percent) was paid to claimants who did not fulfill work search requirements. Despite reporting that they completed a work search, these claimants either did not make the required number of job contacts or did not document their work search, as required.

According to UI Program management, reviewing claimant work search records and verifying job contacts is a labor-intensive process. For example, when staff verify work searches, they must contact the claimant to collect documentation of each job contact made and then contact each employer to verify that the claimant contacted the employer regarding a job. Therefore, it is not possible for the UI Program to verify most claimants' reported work search activities. However, by requiring claimants to provide more information about their work search contacts when they apply for continuing benefits, the program may be able to deter some claimants from falsely reporting that they completed the required number of work searches. For example, if the UI Program reminded claimants about the work search requirement and required all claimants to provide the number of job contacts and detailed information for each contact made, such as the employer's name, address, and telephone number, claimants might perceive a greater risk of being caught if they report false information when filing a continued claim. Further, claimants would be more likely to document their work search activities, as required. Deterring even a small percentage of claimants who would otherwise receive improper payments could save a substantial amount of UI benefits from being improperly paid. For example, based on the \$83 million in work search-related overpayments in Calendar Year 2010, if work search-related overpayments had declined by just 5 percent, \$4.2 million in overpayments could have been averted.

Recommendation No. 3:

The Department of Labor and Employment should improve its processes for collecting information from unemployment insurance (UI) claimants by:

- a. Collecting information regarding claimants' separation from employment when they apply for benefits over the phone, and eliminating or reducing

the use of the “Request for Facts—Employee” form during the initial application process.

- b. Increasing the number of employers who electronically submit information currently collected by the “Request for Facts—Employer” paper form.
- c. Adding an open-ended question to the new UI claims application that asks claimants who report they were laid off to provide more detailed information regarding the circumstances of the layoff.
- d. Adding language to the online and telephone-based continued claims filing systems indicating that claimants must conduct a work search, including a minimum number of job contacts, to continue receiving benefits and requiring all claimants to provide the number of job contacts made each week and information for each job contact when they file for continued benefits.

Department of Labor and Employment Response:

- a. Partially agree. Implementation date: December 2011.

Currently, approximately 30 percent of claims are filed via telephone. A cost-benefit analysis will be conducted that will compare the cost of mailing and processing the forms versus the cost of staff salaries required to collect the claimants’ separation information verbally during the phone calls. The major benefit to mailing the “Request for Facts—Employee” form is that the claimants have the opportunity to provide detailed separation information for consideration during the eligibility and entitlement processing. Also for consideration in the analysis, historical data indicate that verbal collection of this information will add an additional 10-12 minutes to the average call length and, thus, could impact caller wait times.

- b. Agree. Implementation date: June 2012.

The UI Program is working on a new system that will allow employers to optionally provide separation information electronically and should have that in place by June 2012. The program continues to collaborate with the U.S. Department of Labor to expand employers’ participation with the State Information Data Exchange System. Due to federal requirements to notify employers separately of a claim and of potential charges, and some employers’ need for paper processing, we cannot completely eliminate the use of the employer request form.

- c. Partially agree. Implementation date: December 2011.

The current online application does not provide an opportunity for detailed information collection on layoff separations and will be phased out by the end of the year. The new online application, however, provides the claimants with seven options to explain the primary reasons for the layoff. These reasons are: lack of work, weather, reduction-in-force, position eliminated, company closed, company moved, and health. We will be adding an open text box to the ISS application form for those who file online. We are unable to add an open text box for people who file by phone.

- d. Partially agree. Implementation date: December 2012.

We can add language by December 2011 to both the phone application script and the online application clearly outlining claimants' job search responsibilities to collect benefits. We will also include a form for this data collection in the new UI Handbook by March 2012 with clear language that indicates, if requested, claimants must provide the completed form. Collecting this information online will not be feasible until new technology is in place. We will do a cost-benefit analysis of actually adding this information to the new online application system once the new online employer system is fully up and running. This analysis will be completed by December 2012.

Review of Eligibility Issues

After claimants apply for benefits, CUBS analyzes the information provided by claimants and employers and flags claims that have potential issues that may affect claimants' eligibility for benefits or the amount of weekly benefits they may be paid. UI Program staff review these issues to determine whether the claimants are eligible for UI benefits and to calculate the proper payment amounts. Generally, according to UI Program procedures, claims flagged for potential eligibility issues cannot be paid until they are reviewed by UI Program staff.

Potential eligibility issues can fall into two broad categories: separation issues and nonseparation issues. Separation issues relate to whether the claimants lost employment through no fault of their own, as opposed to quitting or being fired, which would generally make them ineligible for benefits. Nonseparation issues are related to any other type of eligibility requirement, such as the claimants not being able and available for work or not making the required work searches. According to UI Program data, about 94 percent of claims have at least one type

of eligibility issue that requires UI Program staff to manually review the claims. Common eligibility issues include the claimants quitting their jobs, not being able and available to work, and earning additional pay, such as severance or vacation pay, as part of their separation from employment.

USDOL regulations establish standards related to due process, accuracy, and timeliness for states to follow when reviewing claims for eligibility issues. Generally, these standards require staff responsible for reviewing claims to make a reasonable attempt to gather all information necessary to make a decision, properly apply state UI laws in making a decision, and issue a notice of decision to claimants that properly explains the legal basis for the decision.

To measure states' performance in complying with its review standards, USDOL requires each state's UI program to conduct several types of statistically valid quarterly reviews of its eligibility review process, and has established benchmarks to assess the program's performance in each area. These reviews assess both the timeliness and quality of the UI Program's eligibility review process. Federal standards assess timeliness based on the percentage of claimants who receive their first payments on time and also on the amount of time the UI Program takes to make decisions on claims with potential eligibility issues. The standards measure the quality of the UI Program's eligibility decisions based on whether the program followed federal procedural standards for reviewing claims. During the audit, we compared Colorado's UI Program performance to federal standards over the last 5 years, as shown in the following table.

Comparison of Federal Timeliness and Quality Review Standards for Unemployment Insurance Claims Review and Payment to Colorado's UI Program Performance¹ Calendar Years 2006 Through 2010							
Type	Description	USDOL Standards	Colorado UI Program Performance Calendar Years 2006-2010				
			2006	2007	2008	2009	2010
Timeliness Reviews							
First Payment Timeliness	Measures the timeliness of all first payments made on eligible claims during the quarter.	87% of claims must be paid within 14 days of the first week of eligibility.	90%	91%	89%	85%	84%
Separation Decision Timeliness	Measures the timeliness of the UI Program's decisions on potential separation issues during the quarter.	80% of issues must be decided within 21 days of detection.	37%	36%	37%	37%	41%
Non-Separation Decision Timeliness	Measures the timeliness of the UI Program's decisions on potential nonseparation issues during the quarter.	80% of issues must be decided within 21 days of detection.	69%	70%	70%	64%	75%
Quality Reviews							
Separation Decisions Quality	Measures the quality of the review process the UI Program used to make decisions on a sample of 50 separation issues decided during the quarter.	75% of issues sampled must pass the review.	40%	52%	63%	55%	45%
Non-Separation Decisions Quality	Measures the quality of the review process the UI Program used to make decisions on a sample of 50 nonseparation issues decided during the quarter.	75% of issues sampled must pass the review.	47%	58%	69%	69%	54%

Source: U.S. Department of Labor.
¹Italicized figures indicate that the performance of Colorado's Unemployment Insurance Program did not meet federal benchmarks.

As shown in the table, with the exception of the first payment timeliness standard for Calendar Years 2006 through 2008, the UI Program did not meet any of these federal standards from Calendar Years 2006 through 2010. In particular, the UI Program has struggled to meet the standards for claims with potential separation issues, issuing only 41 percent of those decisions timely and meeting quality

standards only 45 percent of the time in Calendar Year 2010. This compares to the national average of 59 percent of claims that were decided on time and 69 percent that met federal quality standards.

It is important that the UI Program meet federal timeliness and quality standards, because errors and delays in the claims review and payment processes can result in overpayments or underpayments, denial of due process to claimants and employers, and delayed benefits payments. According to reviews conducted by UI Program staff to estimate the amounts and causes of overpayments, during Calendar Year 2010, about 31 percent of all UI Program overpayments were caused or partially caused by errors made by UI Program staff responsible for reviewing claims. Using this percentage, this would represent an estimated \$119 million of \$382 million in estimated overpayments for Calendar Years 2006 through 2010, including \$52 million of the \$169 million in overpayments for Calendar Year 2010.

Overall, we identified three problems that appear to contribute to the errors and delays in the UI Program's processing of claims and review of eligibility issues. First, staff do not always gather sufficient information to support their claims decisions. Second, program rules related to claimants filing weekly claims and staff performance standards can delay the processing of claims. Third, statutory eligibility requirements create additional workload for staff. We discuss these problems in the following sections.

Claims Information Gathering

According to the supporting documentation for the UI Program's quality reviews conducted in Calendar Year 2010, a major reason that the UI Program's claims quality scores have not met federal standards is that staff do not always contact all interested parties and/or make a reasonable attempt to gather all information necessary to support their claims eligibility decisions. Specifically, in Calendar Year 2010, UI Program staff did not collect adequate information from the claimants, employers, and/or other parties to support the eligibility decisions made in 182 (46 percent) of the 400 cases reviewed. It is important to note that the failure to collect sufficient information does not conclusively indicate that staff made an incorrect decision. However, the UI Program's quality reviews also found that staff misapplied the law, made inaccurate eligibility decisions, or issued improper notices of decisions in 71 (18 percent) reviewed cases. These decisions were made in error due to staff miscalculating benefits; improperly allowing, postponing, or denying benefits; or not providing accurate information related to the decisions to the parties. Because these quality reviews use a statistically valid sample, the error rates can be extrapolated to the entire population of claims for Calendar Year 2010.

According to UI Program staff, the large volume of claims that they must review increases the difficulty of collecting all the necessary information on claims and still issuing timely decisions, especially when the claimants and employers provide contradictory information about the reasons why the claimants left employment. As previously mentioned, 94 percent of claims require some manual review. We found that the UI Program may be able to reduce workload, and thereby increase the time staff have to review claims, by further automating the claims review process. Specifically, if claimants file a request for continued benefits payments by phone and indicate that they were not able and available to work or did not look for work during the week, CUBS will automatically deny benefits for that week without UI Program staff also looking at the claims. However, because CUBS is not programmed to automatically deny claims when claimants file for continued benefits online and indicate they were unavailable for work or did not look for work, UI staff must review these online claims manually and issue a decision.

According to UI Program management, staff must also manually review claims, regardless of how they are filed, when claimants indicate that they are not registered at a workforce center, which is a requirement to receive UI benefits. Staff indicated that CUBS could be reprogrammed to process both types of eligibility issues described above, although UI Program management believe this change would require significant resources. We estimate that automating the processing of these claims could eliminate the need for staff to manually process about 9 percent of the eligibility issues identified during Calendar Year 2010 and would save the UI Program the equivalent of about 4.2 FTE and \$226,000 in salary and benefits annually.

Program Filing Rules

We also found that UI Program rules for filing claims and performance goals for claims eligibility review staff may increase the number of claims that are not paid on time. As discussed in Chapter 1, after claimants complete the initial application, they must also file a request for benefits before they can be paid. According to statute (Section 8-73-107, C.R.S.) and program rules, claimants must make their first request for payment during a 2-week period, which begins 14 days after they submit their initial application and ends 28 days after the initial application.

We found that these rules can cause the UI Program to make untimely first payments of benefits, as measured by federal standards. As applied to Colorado's UI Program, USDOL standards generally require the UI Program to make the first payment of benefits within 28 days of a claimant submitting the initial application. Thus, if a claimant waits the full 28 days after the initial application to file his or her first request for payment, as allowed by program rules, the UI Program would have to pay the claim on the same day that payment is requested

to meet the federal deadline, which does not allow any time for staff to review the claim for eligibility and process payment. According to UI Program management, at a minimum, review staff must make eligibility decisions 2 days before the federal deadline to ensure timely payment.

According to UI Program management, until February 2009, the program required claimants to file a request for benefits within 7 days of the initial application, which resulted in the UI Program making more timely payments. However, in 2009, the program changed the deadline to 14 days to reduce the number of claimants who miss the deadline and require assistance from UI Program staff. Although this change reduced workload by reducing the number of late filers, management indicated that the change may have increased the number of claims that missed federal timeliness deadlines.

We also found that the UI Program's performance standards established for claims review staff can contribute to untimely payments. Program performance standards allow review staff 10 days to resolve eligibility issues on claims, regardless of whether this deadline could result in the claims not meeting the federal standard. As a result, staff could miss the federal time line but meet the UI Program's performance standard. For example, if a claimant filed his or her first request for payment on the 19th day after submitting his or her initial application, according to program performance standards, review staff would have until the 29th day to complete their review of the claim, which is later than the federal standard of 28 days to pay the claim.

Eligibility Law

As previously mentioned, the UI Program has not met federal standards and has performed below the national average on federally required reviews of its claims review process for separation issues. According to UI Program management, a major reason Colorado's UI Program has difficulty handling claims with separation issues is that Colorado's UI laws require more work to determine eligibility than other states' laws. We were able to identify one particular statutory requirement that appears to drive increased workload for Colorado's UI Program. Specifically, statute (Section 8-73-108, C.R.S.) requires the UI Program to determine claimants' eligibility based on all of the claimants' base period and most recent employers. Thus, claims review staff must consider any separation eligibility issues for each employer for whom the claimants worked for more than a 1-year period. By contrast, at least 30 states' UI programs determine eligibility based solely on the most recent employer. Overall, we found that in Calendar Year 2010, claimants had an average of 1.4 employers during their base period. In Calendar Year 2010, having to review issues associated with multiple employers per claim created approximately 18,600 hours of additional work for UI Program

staff, which equates to about nine FTE at a cost of about \$582,000 in salary and benefits annually.

If the UI Program sought legislative change so that claimant eligibility was determined based solely on the most recent employer, it could reallocate the nine FTE and \$582,000 mentioned above to better meet the federal requirements. However, before pursuing this change, the program would need to evaluate how this change would affect claimants, employers, and the UI Trust Fund. Based on our review, it appears that basing eligibility on the most recent employer would, in some cases, benefit employers and, in other cases, benefit unemployed workers. For example, changing the current system could benefit employers by allowing them to avoid liability and increased premiums when they lay off an employee who is hired and subsequently fired by a second employer for good cause during the same base period. Because the UI Program would base the claimant's eligibility solely on the last employer, the claimant would be ineligible for benefits due to being fired from his or her most recent job and could not claim benefits based on any previous employer during the base period. In other cases, changing the system would benefit unemployed workers by allowing them to receive benefits payments based on all of their previous employers when they were laid off from their most recent job but were fired or had quit previous jobs during the base period, the reverse of the previous example. Therefore, we believe that the UI Program needs to conduct a comprehensive analysis to determine the net effect that any change to Colorado's multiple employer law would have on employers and employees and, ultimately, the UI Trust Fund (i.e., if basing claimant eligibility on the last employer results in more claimants receiving benefits, the UI Trust Fund could be further depleted). With this information, the UI Program could determine whether the benefits of any change in Colorado's multiple employer law would outweigh the disadvantages.

Recommendation No. 4:

The Department of Labor and Employment (the Department) should improve the efficiency and quality of the Unemployment Insurance Program's (UI Program) review of claims eligibility issues by:

- a. Reprogramming the Colorado Unemployment Benefits System (CUBS) to allow for the automated processing of claims with issues related to claimants being able and available for work, looking for work, and registering with a workforce center.
- b. Making changes to claims filing rules to require claimants to file earlier and reviewing the procedures used to set deadlines for eligibility review staff to ensure that the deadlines for resolving claims eligibility issues align with federal deadlines, when possible.

- c. Analyzing the effect of benefits being determined solely on the last employer, and considering the impact to employers, claimants, and the Unemployment Insurance Trust Fund. If it is determined to be in the best interests of the State, the Department should work with the General Assembly to change this statutory requirement.

Department of Labor and Employment Response:

- a. Partially agree. Implementation date: September 2012.

Due to the complexity of the UI Program's aged IT system, the proposed change is time-consuming and competes with other mandatory changes and upgrades for priority. A cost-benefit analysis of this proposed change should be completed to determine if the efficiency gained would exceed that of other already identified priority initiatives. We will also discuss this issue with the multistate consortium to determine feasibility.

- b. Partially agree. Implementation date: July 2013.

The program has already initiated a time and cost estimate for the completion of the necessary automation changes that would be required to allow claimants to file continued claims weekly instead of biweekly. Due to the expense and concerns with system capacity, telephonic continued claims will continue to be filed on a biweekly basis via the phone system. In April 2011, the Department amended the performance plans and procedures of staff to align deadlines for resolving claim issues to meet both Department and federal timeliness standards.

- c. Agree. Implementation date: July 2013.

We have already begun discussions and are analyzing what the impact of this change would be to both claimants and employers, which should be completed by January 1, 2012. We are also considering the impact of changing statutes and, consequently, business requirements for the new system. If we move forward with legislation, the effective date would be upon implementation of the new technology.

Overpayment Detection and Recovery

Overpayments represent a significant concern for Colorado's UI Program. For example, reviews conducted by the program estimate that there were about \$169 million in overpayments of UI benefits in Calendar Year 2010, which represents about 19 percent of the \$900 million total state benefits payments made that year. As shown in the following table, total overpayments have increased 285 percent from Calendar Years 2006 through 2010, while the amount of overpayments as a percentage of total payments has remained at or above 15 percent during this period. Most overpayments occur either due to claimants providing inaccurate information when they file for benefits, such as failing to disclose wages that they earned while receiving benefits, or due to claimants not fulfilling all requirements for receiving benefits, such as not completing and documenting required work searches. In addition, overpayments can be caused by employers not providing timely information and by errors made by UI Program staff responsible for reviewing claims.

Unemployment Insurance Program Overpayments											
Calendar Years 2006 Through 2010											
(Dollars in Millions)											
Overpayment Cause	2006	%	2007	%	2008¹	%	2009¹	%	2010	%	% Change CY 2006 - 2010
Work Search Issues	\$ 6.9	16%	\$ 34.2	63%	\$ 20.6	70%	\$ 36.3	42%	\$ 83.0	49	1103%
Earned Wages	8.9	20	2.5	5	4.5	15	13.2	15	23.6	14	165
Separation Issues ²	13.3	30	6.5	12	1.0	3	12.6	15	24.0	14	80
Not Registered at a Workforce Center	2.5	6	4.2	8	0	0	12.6	15	13.0	8	420
Other Pay Upon Separation	4.1	9	2.5	5	2.1	7	8.4	10	11.7	7	185
Inadequate Base Period Wages	0.8	2	0.8	1	0.2	1	2.5	3	4.8	3	500
Claimant not Able and Available for Work	0.4	1	2.6	5	0	0	0	0	1.6	1	300
Other	7.0	16	0.6	1	1.2	4	0	0	7.5	4	7
Total Overpaid³	\$ 43.9	100%	\$ 53.9	100%	\$ 29.6	100%	\$ 85.6	100%	\$169.2	100%	285%
Total State Benefits Payments	\$291.3	-	\$308.1	-	\$193.9	-	\$511.4	-	\$907.3	-	211%
Percentage Overpaid	15%	-	17%	-	15%	-	17%	-	19%	-	4%

Source: U.S. Department of Labor and Employment.

¹Because the Unemployment Insurance Program did not complete the required number of claims reviews in Calendar Years 2008 and 2009, the overpayment figures provided are not statistically valid. Further, total payment figures provided are based on insufficient sampling and do not provide complete totals for the year.

²Includes claimants found to be ineligible due to the circumstances of their separation (e.g., quit, laid off, or fired) from employment.

³Includes only overpayments of regular state benefits. Federal and state extended benefits payments are not included in estimating the amount overpaid.

Overpayments are a common problem across UI programs nationally, with overpayments composing about 11 percent of all state benefits payments in Calendar Year 2010. However, as the table above shows, Colorado's overpayment rate has consistently been higher than 11 percent over the last 5 years. Further, in September 2011, USDOL identified Colorado as one of seven

states with the highest rates of overpayments for the 3-year period of July 2008 to June 2011.

USDOL requires each state to have procedures in place to (1) estimate the overall amount of benefits overpaid in its system and the reasons for the overpayments and (2) review individual claims to identify actual overpayments that can be recovered. The UI Program relies on two staff units to complete these requirements, as follows:

Benefit Accuracy Measurement (Benefit Accuracy) Unit. Benefit Accuracy unit staff review statistically valid samples of paid claims to determine whether each claimant was eligible to receive benefits and whether the proper amount was paid. Based on the errors found in the samples and a federal extrapolation methodology, the Benefit Accuracy unit calculates an estimate of the total amount of benefits overpaid in Colorado for a given year and the reasons that the overpayments occurred. The Benefit Accuracy unit was responsible for identifying Colorado's \$169 million overpayment figure mentioned previously.

Benefit Payment Control (Payment Control) Unit. Payment Control unit staff are responsible for identifying and recovering individual overpayments that compose the overall overpayment figure calculated through Benefit Accuracy unit reviews. Staff can use several methods to detect overpayments, including the following:

- **Wage Cross-Matches**—Records of paid claimants are compared to wage records provided to the UI Program by employers to determine if claimants failed to report wages they were receiving while filing for unemployment.
- **New Hire Directory Cross-Matches**—Records of paid claimants are compared to a federal database that records newly hired workers to determine if claimants became employed while filing for unemployment benefits.
- **Tips and Leads**—UI Program staff follow up on information provided by employers and other parties that claimants are fraudulently claiming unemployment benefits.

Once individual overpayments have been detected, Payment Control unit staff are responsible for recovering the funds from overpaid claimants, which can include offsetting future benefits or creating payment plans for former claimants.

Each year, USDOL evaluates the results of states' previous Benefit Accuracy unit reviews to determine the proportion of overpayments that each state could detect and recover through Payment Control unit activities. Overpayments that are

determined to be detectable and recoverable are known as operational overpayments. Based on the amount of operational overpayments that have occurred during previous years, USDOL sets performance standards for each state's Payment Control unit. Generally, to meet the standard, USDOL requires states to identify, but not necessarily recover, between 50 and 95 percent of operational overpayments, measured over the prior 3 years. The USDOL standard for overpayment identification in Colorado was 53 percent for Federal Fiscal Year 2010. In Calendar Year 2010, the Colorado UI Program's operational overpayments represented an estimated \$61 million (36 percent) of Colorado's \$169 million in total UI overpayments.

During the audit, we reviewed the Payment Control unit's overpayment detection and recovery data, observed and interviewed Payment Control unit staff, and reviewed Payment Control unit policies and procedures. We also compared the Payment Control unit's 3-year overpayment detection rate to USDOL standards for Colorado's UI Program over the last 5 years. As shown in the following table, the Payment Control unit met federal standards from Federal Fiscal Years 2006 through 2009 but did not meet federal standards in Federal Fiscal Year 2010. The table also shows that the UI Program's detection declined significantly in Federal Fiscal Year 2010.

Unemployment Insurance Program Benefit Payment Control Unit Performance Federal Fiscal Years 2006 Through 2010					
	2006	2007	2008	2009	2010
USDOL Standard	60%	60%	61%	56%	53%
UI Program's 3-Year Detection Rate	61%	60%	68%	63%	42%
Source: U.S. Department of Labor.					

When the Payment Control unit detects fewer overpayments, fewer overpayments will be recovered and, ultimately, more funds will be permanently lost from the UI Trust Fund. For example, in Calendar Year 2010, if the Payment Control unit was meeting the federal performance goal of identifying 53 percent of operational overpayments, it would have identified about \$11 million in additional overpayments. Based on the Payment Control unit's average recovery rate for identified overpayments of 43 percent, this would have resulted in about \$5 million in additional recoveries in Calendar Year 2010. Further, although the UI Program may be able to identify overpayments from prior years in the future, the likelihood of recovering the overpayments decreases as they age.

As discussed below, we found that a lack of adequate staff and the UI Program's prioritization of overpayment recovery methods have contributed to the UI Program's identifying and recovering fewer overpayments.

Lack of Staff. According to Payment Control unit staff, overpayment detection rates have decreased because of the large increase in overpayments beginning in Calendar Year 2009, which led to a substantial increase in workload for the Payment Control unit. At the same time, the unit did not receive additional staff to accommodate the increase in work. As a result, the Payment Control unit has suspended or significantly reduced staff time dedicated to detecting new overpayments to recover overpayments that have already been identified. For example, interstate cross-matches, which match out-of-state wages with claimants requesting benefits in Colorado, were completely suspended in September 2008. In addition, intrastate cross-matches against wages reported directly to the UI Program are backlogged to 2009. These cross-matches are the Payment Control unit's primary way to identify claimants who were hired and received wages but falsely claimed that they continued to be unemployed.

Although staffing concerns exist across the UI Program, because the Payment Control unit's activities are highly beneficial relative to their costs, we believe that the UI Program should consider reallocating staff to the Payment Control unit to help address the current problems related to a lack of staff. We found that in Fiscal Year 2010, the Payment Control unit recovered \$18.9 million in overpaid funds, compared to the \$2.8 million the program expended on the unit. This is equivalent to a net gain of about \$500,000 for each of the approximately 30 FTE on its staff. Thus, if the UI Program were able to reallocate, for example, 10 FTE to the Payment Control unit, the increased staff could result in an additional \$5 million of overpayments being recovered and deposited into the UI Trust Fund annually. As noted at the beginning of this chapter, we identified nearly 40 FTE within the UI Program's claims review functions that we believe could be reallocated to more efficient use.

Recovery Prioritization. We also found that the Payment Control unit could improve the efficiency of its efforts to recover identified overpayments. Specifically, Payment Control unit staff have been attempting to catch up with the current overpayment backlogs for wage cross-matches, which identify claimants who may have failed to report wages when filing for benefits, by working on older claims first. This approach appears to be less efficient, since older claims are likely to be more difficult to recover and may explain why the Payment Control unit's rate of recovery on identified overpayments decreased from 50 percent in Calendar Year 2006 to 43 percent in Calendar Year 2010.

Finally, as noted previously, in September 2011, USDOL identified Colorado as one of the seven states in the country with the highest overpayment rates over the last 3 years. As a result of this identification, USDOL plans to impose a corrective action plan on Colorado's UI Program and increase monitoring and technical assistance in Colorado until the State's overpayment rate dips below 10 percent of all UI payments. At the time of our audit, the UI Program had not received specific information about the corrective action plan that USDOL will require, but

the UI Program should take all steps necessary to comply with this plan and reduce its overpayment rate.

Recommendation No. 5:

The Department of Labor and Employment (the Department) should increase the number of overpayments detected and recovered by:

- a. Reviewing the current staffing levels and determining if there are opportunities to reassign additional staff to the Benefit Payment Control unit for the purpose of increasing overpayment detection and recovery activities.
- b. Giving priority to detecting and collecting more recent overpayments.

Department of Labor and Employment Response:

- a. Agree. Implementation date: November 2011.

From April to August 2011, the Department conducted a comprehensive qualitative and quantitative analysis of staffing and functions within the UI Program to design a more efficient and effective operations structure. The resulting reorganization plan (1) streamlined management and administrative functions, (2) dedicated more resources to customer service and quality control functions, and (3) increased the utilization of permanent part-time staff to balance economic and seasonal demands with fluctuating funding provisions. The UI Program reorganization, which will be complete on November 1, 2011, will allow the program to focus on these issues by moving additional staff from other support areas to direct service, including the customer service center, adjudication, and integrity and fraud units. This should result in decreased administrative overpayments and an increase in detection and recovery of overpayments.

- b. Agree. Implementation date: June 2011.

The Department is already intensifying efforts to eliminate overpayments with focus on three main root causes of improper payments: work-search, separation, and benefit-year earnings issues. To tackle these root causes, an Integrity Task Team, composed of staff from all branches, was implemented in July 2011 to focus on prevention, detection, and recovery of improper payments. A robust

Integrity Action Plan has been developed to combat improper payments. This task force will track the improper payment rates, monitor the action plans, and make adjustments, as needed. Communication efforts are being revamped to provide additional methods in which the UI Program can communicate critical information to staff, claimants, and employers beginning in September 2011 and ongoing. As of October 2011, training teams began developing, refining, and testing competency-development tools and techniques for frontline staff in each discipline to improve staff skill and abilities for UI Program delivery that will result in fewer administrative overpayment errors. We anticipate lowering improper payments to meet or be less than the national average of 11 percent by September 2012.

As of June 2011, priority has been given to detect and collect more recent overpayments with emphasis on National Directory of New Hire audits, which allow the overpayment to be detected sooner. The UI Program will begin an aggressive approach for recovery of improper payments by using automated skip-tracing tools that will be made available by October 31, 2011. The UI Program will continue to intercept state tax refunds and will soon intercept federal tax refunds and gaming proceeds for UI overpayments beginning January 2012.

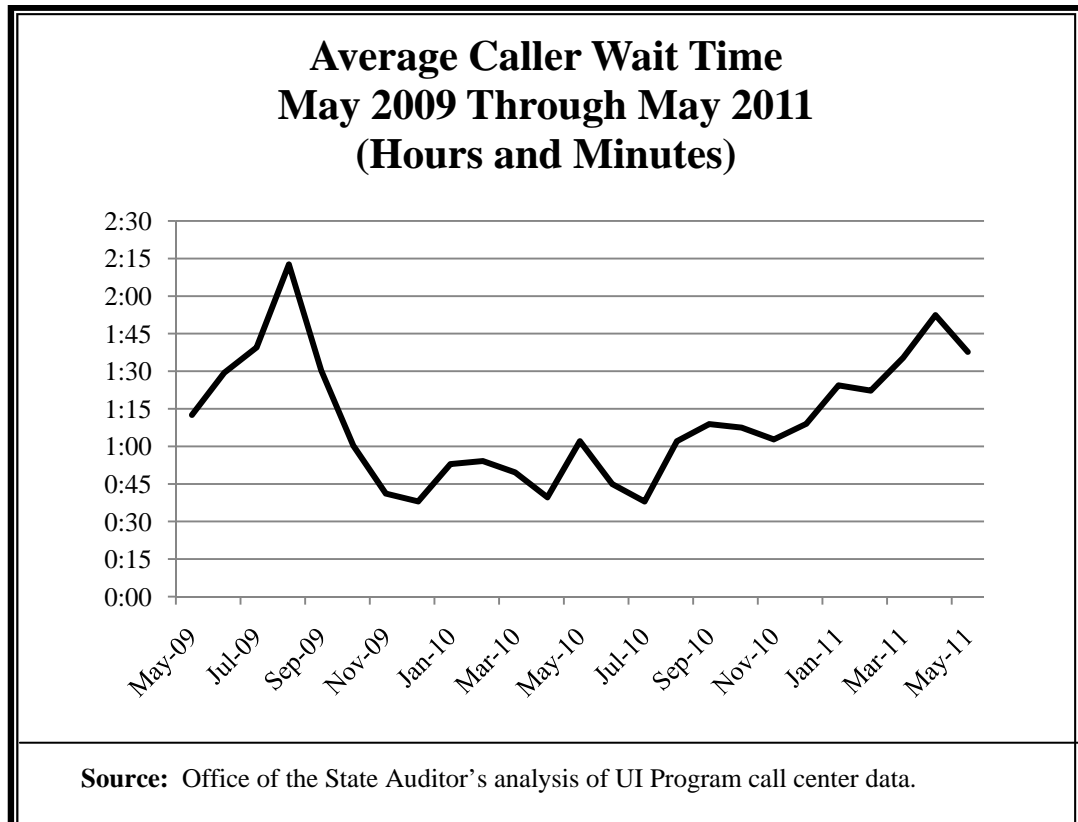
Customer Call Center

The UI Program's customer call center provides claimants with an important resource for obtaining information about their claims and removing holds on claims that could prevent, delay, or reduce payments. The call center is the UI Program's main point of contact with the public and a critical resource to claimants. During the audit, we observed call center staff, reviewed call data, and assessed the UI Program's allocation of call center staff. Overall, we found that due to the large increase in calls, the UI Program has had difficulty providing claimants with adequate access to customer service agents. In addition, we identified several opportunities to increase the number of callers whom the UI Program is able to serve.

Our review of the customer service line indicates that the UI Program has not been able to provide claimants with consistent access to customer service agents. According to our review of call data and testing of the customer service line, since Calendar Year 2009, most claimants calling the UI Program have received either a busy signal or were directed to a self-service menu with no option to speak with an agent because all available lines were full. In addition, during a 9-day period in February 2011, we called the UI Program's customer service line 50 times. For 48

(96 percent) of the calls, we either received a busy signal or were directed to the self-service line, which does not give an option to speak with a call center agent. Further, we reviewed call center data and found that of about 532,000 calls directed to the self-service line in June 2011, about 465,000 (87 percent) calls were abandoned, suggesting that many of the callers needed to speak with a customer service agent but were unable to do so. It is important to note that the 465,000 abandoned calls do not necessarily represent 465,000 individual claimants, as claimants may have made multiple attempts to reach the customer service center.

After callers successfully get through to the main phone line, they typically experience long wait times. As of July 2011, we found that the average wait time for the main general inquiry line was 1 hour and 40 minutes. As shown in the following chart, wait times have varied considerably from May 2009 through May 2011, peaking at 2 hours and 13 minutes in August 2009, falling to 38 minutes in December 2009, then slowly increasing back to current levels. UI Program staff reported that in 2009, caller wait times sometimes exceeded 3 hours.



According to UI Program management, the problems we identified are primarily caused by the program not having sufficient staff to answer the volume of claims it has received. Although our review confirmed that lack of staff is a fundamental

problem, we also identified several opportunities to increase the number of callers the UI Program can accommodate, as discussed below.

Eliminating Claimant Call-Back System. To avoid the main customer service line, some claimants attempt to get help with their claims at workforce centers or by randomly calling the UI Program's noncustomer service phone lines. When this occurs, the UI Program staff who are contacted often cannot help the claimants with their issue. To accommodate these claimants, the UI Program established a customer call-back system. This system allows for UI Program staff to collect the claimants' contact information and arrange for a customer service agent to call the customers back in 5 to 7 business days. According to program management, in Calendar Year 2010, the UI Program conducted 40,000 call backs.

Although the customer call-back system provides better service to some claimants, we found that it ultimately reduces the number of calls the UI Program can answer. We examined call-back data and observed staff conducting call backs and found that staff assigned to call backs serve significantly fewer claimants than staff assigned to receive incoming calls. Specifically, from November 2010 through January 2011, we estimate that, on average, full-time call center agents conducting call backs spoke with 78 percent fewer claimants than agents answering incoming calls, because claimants are often not home when they receive the call back. During this time period, the UI Program assigned at least seven FTE to conduct call backs each day. Thus, it appears that the UI Program could increase its staff time available to speak with claimants by the equivalent of about 5.5 FTE and \$296,000 in salary and benefits annually by eliminating the call-back system and requiring all claimants to use the customer service line.

Reducing Claims Filing By Phone. As previously discussed, the UI Program gives all UI claimants the option of filing claims over the phone, rather than completing the online application form. During the audit, we found that several other states, including Pennsylvania, Oklahoma, and Utah, limit the ability of most claimants to file claims by phone. If the UI Program required claimants to file for benefits online, it could save a substantial amount of staff time. Specifically, during Calendar Year 2010, about 59,000 claims were filed over the phone. According to UI Program management, it takes staff about 20 minutes per claim to assist claimants who apply for benefits over the phone. Based on this average call time, we estimate that the UI Program could reallocate as much as 9.5 FTE, paid about \$512,000 annually in salary and benefits, if most claimants were required to file online.

Although requiring claimants to file for benefits online would reduce call center workload and increase the UI Program's ability to provide other services to claimants, this change could also create a substantial burden for some claimants. For example, UI Program management indicated that some claimants have vision

problems, cannot read, or live in remote areas that do not have Internet access. Thus, before making this change, the UI Program would need to determine whether it could still adequately serve all claimants and develop alternative means of applying for benefits for claimants who cannot file online.

Assigning More Customer Service Staff to Phone Duties. Our review of customer service center staff allocation indicates that the UI Program may be able to increase the number of staff assigned to answer incoming calls. For example, in June 2011, the customer service center had approximately 94 staff but, on average, only assigned 31 (33 percent) staff to answer incoming calls. As a result, customers experienced average wait times of 99 minutes. By comparison, the UI Program was able to reduce caller wait times to 63 minutes in November 2010, when 47 agents were assigned to answering calls. The agents who were not assigned to answer calls were assigned to other duties, such as helping claims review staff, assisting claimants in person, conducting customer call backs, and working on other special projects. In addition, the UI Program gives call center staff the option of having a flex schedule, which allows them to work four 10-hour shifts each week instead of the standard five 8-hour shifts. The UI Program normally experiences its highest caller volumes on Mondays, Tuesdays, and Wednesdays. When we analyzed staffing data for November 2010 through January 2011, we found that, on average, 17 percent of agents were absent on these three days, and call center management indicated that this was primarily because of the UI Program's flex schedule policy. Although the customer service agents work the same number of hours regardless of whether they have a flex schedule, it appears the UI Program could increase its ability to answer calls on the busiest days by restricting flex schedule days off to the least busy days.

Recommendation No. 6:

The Department of Labor and Employment (the Department) should improve the efficiency of its customer service functions in the Unemployment Insurance Program (UI Program) by:

- a. Eliminating or restricting the use of customer call backs.
- b. Requiring claimants to apply for unemployment insurance benefits online and establishing alternative application procedures for claimants who are not able to file online.
- c. Developing and implementing strategies to increase the number of staff answering customer service calls, including evaluating the UI Program's flex schedule policy to determine if it is consistent with optimizing customer service.

Department of Labor and Employment Response:

- a. Agree. Implementation date: March 2012.

We have already restricted call backs, and they have been reduced by over half in the past year and will continue to decline as service levels improve in the call center and through outreach efforts. Further restrictions on call backs will be accomplished through internal management procedures and controls. However, recognizing that from time to time the need will arise to respond by telephone to urgent, complex, or unique requests or issues, the program considers it essential that call-back capabilities not be eliminated “completely.”

- b. Partially agree. Implementation date: May 2012.

The Department believes it would be overly stringent to require all claimants to file over the Internet without regard to service access issues, though this is the preferred method. However, we will research this issue with other states that have moved to an all-online application system to determine if such a system is feasible for Colorado and will take steps, as applicable, based on this research.

- c. Agree. Implementation date: July 2012.

The reorganization of the UI Program, which will be complete on November 1, 2011, will allow the UI Program to focus on these issues. Staff will be moved from other support areas to direct service in the call center. The Department has previously evaluated the flex-time policy and staffing needs, making coverage adjustments as needed to best serve the needs and interests of the customers. Our internal analysis demonstrates that the complete elimination of flex-time schedules, however, would result in fewer calls being answered overall due to the reductions in scheduled phone time. We are now going to conduct another analysis based on new staffing levels and days flex time can be offered to maximize customer service.

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