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LAO Report Overview: California's Unemployment Insurance Program

PRESENTED TO:

Assembly Committee on Accountability and
Administrative Review
Hon. Cottie Petrie-Norris, Chair

Assembly Committee on Insurance
Hon. Tom Daly, Chair



LEGISLATIVE ANALYST'S OFFICE

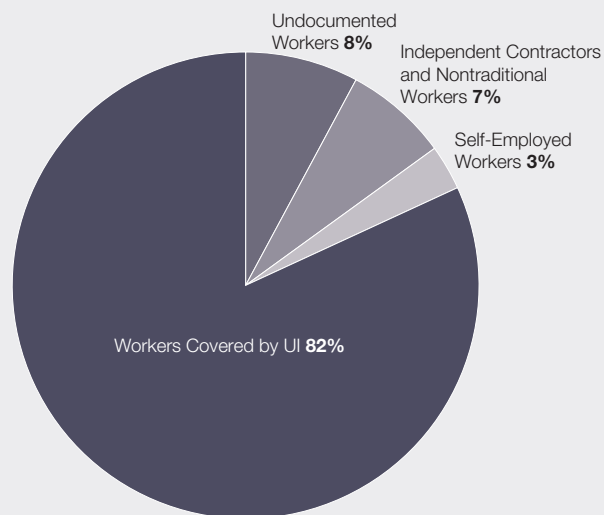
California's Unemployment Insurance Program

Overview. California's Unemployment Insurance (UI) program is a state-federal partnership that provides temporary wage replacement to unemployed workers. First enacted in response to the Great Depression, UI helps alleviate temporary economic challenges for workers and their families. By backfilling lost wages, the program also bolsters the state economy during economic downturns. The state's Employment Development Department (EDD) administers the UI program.

Benefit Amounts and Duration. The program is intended to replace half of workers' wages for up to 26 weeks. State law sets the maximum benefit at \$450 per week. The average benefit is about \$330 per week. Unemployment insurance covers traditional employees. Independent contractors, self-employed individuals, informal workers, and undocumented workers are not covered. The state's UI program covered more than 80 percent (or 17.4 million) of California workers in 2019.

Most, but Not All, Workers Are Covered by State's UI Program

2019



UI = Unemployment Insurance.

LAO



State's UI Program Faltered During Recent Downturns

State's UI Program Faltered During Recent Downturns. Despite its importance, the UI program faltered during the two most recent downturns—the Great Recession and the pandemic. During the pandemic, UI payments were delayed for roughly 5 million workers and improperly denied for as many as 1 million more. The department's phone lines were routinely overwhelmed by the number of frustrated callers. These failures caused hardship for unemployed workers, held back the economic recovery, and spurred frustration among Californians.

Why Was It Difficult for Unemployed Workers to Get Benefits? For unemployed workers, applying for and getting UI payments can be a difficult process for various reasons:

- Lengthy and complex application.
- Workers often required to submit additional documentation.
- Businesses frequently contest former workers' claims.
- Workers who appeal a denial must wait for an appeals hearing.
- Unemployed workers must regularly recertify their eligibility.

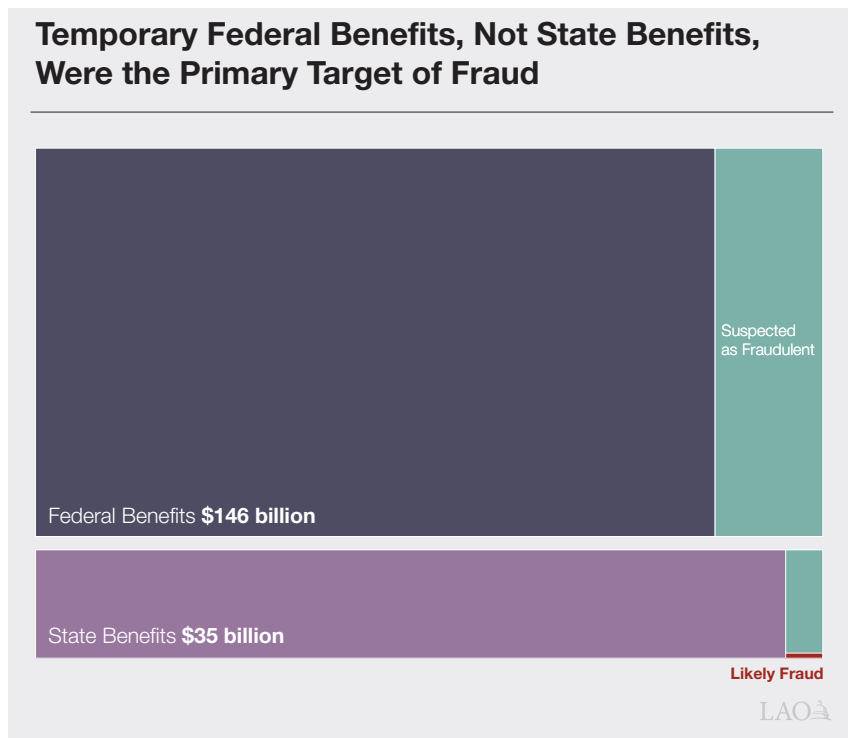
State Policies and Practices Have Evolved to Make Getting Benefits Difficult. The key factor behind why getting benefits has become difficult is the UI program's basic structure, which encourages EDD to disproportionately focus on stopping fraud and minimizing business costs. Without safeguards to make sure eligible workers can get benefits easily, the state's policies and actions have tilted the UI program out of balance. The program's basic design has led to state policies and actions that make getting benefits difficult:

- EDD operates UI program with orientation toward businesses, which have incentive to contain their costs.
- Federal pressure to avoid errors creates incentive to conduct lengthy reviews.
- To keep the UI Trust Fund solvent, state may look for ways to contain costs.



A Closer Look at Recent Fraud

Recent Identity Fraud Concentrated in Temporary Federal Benefits That Have Ended. An unprecedented level of identity fraud targeted UI payments during the pandemic. The figure below shows the administration's estimate of UI benefit fraud. The vast majority of fraud occurred in the temporary, 100 percent federally funded programs that now have ended. The federal program did not require the basic fraud safeguards found in the state's regular UI program.



Fraud Estimate Likely Overstated. The department's estimate of state UI fraud (\$1.3 billion) is likely overstated. EDD counted state UI claims as fraud if the worker did not confirm their identity when EDD asked. Yet there are several reasons why workers with legitimate claims may not have followed up with EDD. Many workers had already run out of benefits, giving them little reason to respond to EDD's requests. Other workers may have given up in frustration after trying unsuccessfully to send in documents.



Signs of Imbalance in the UI Program

Improper Claim Denials. If a worker or business disagrees with EDD’s decisions, they may appeal to the California Unemployment Insurance Appeals Board. In recent years, about half of EDD’s decisions to deny workers’ UI benefits have been overturned on appeal. In contrast, less than one-quarter of other states’ decisions to deny eligibility are overturned.

Delayed Payments. During normal times, state practices lead to delays for 15 percent of workers who apply for UI. During the Great Recession, about 25 percent of workers received delayed payments. During the pandemic, delays were more common— affecting between 30 percent and 50 percent of workers applying for UI.

Difficult to Prove Eligibility. The burden of proof is placed on workers to show they are eligible for UI. Some steps ask workers to submit more information, while others seem to encourage businesses to dispute claims. Each of these elements may appear reasonable individually, but taken together they make it unduly difficult for workers to get benefits.

Recent Actions at Odds With Goal of Getting Benefits to Workers. The department took actions during the pandemic that suggest getting payments to workers is not a top priority. Below, we list a few examples:

- ***EDD Denied 3.4 Million Workers for Not Sending Documents Via Mail at Time When Department Could Not Process Its Mail.*** Many of these workers—disqualified under UI Code Section 1253(a)—may have been eligible: of workers who appealed (about 200,000), the appeals board overturned EDD’s action 78 percent of the time.
- ***EDD Mischaracterized Figures in Legislative Reports, Showing Fewer Denials.*** A 2020 state law directed the department to issue reports to the Legislature about the number of workers who were disqualified. The department reported it had disqualified 705,000 UI claims. Yet during that same period, the department disqualified 3.4 million claims under Section 1253(a) alone.
- ***Department Froze Benefits for Eligible Workers.*** Without notifying workers ahead of time, EDD stopped payments for 1.1 million claims that had been flagged as potentially fraudulent. Ultimately, more than 600,000 workers with legitimate claims logged through the system to unfreeze their accounts, but not before weeks of missed payments.



LAO Recommendations to Improve UI Program

Summary of LAO Recommendations to Improve Unemployment Insurance (UI)

✓ **Limit Improper Claim Denials**

More than half of the UI claims the Employment Development Department (EDD) denies are overturned on appeal. Overturned denials cause lengthy delays for workers who appeal and raise concern that the state denies many eligible workers. Likely between \$500 million and \$1 billion annually in UI payments go unpaid each year due to improper denials.

- Audit claim denials to learn more about claim types that EDD regularly denies.
- For claims denied because an eligible worker did not follow EDD rules, reevaluate rules to make sure benefits outweigh costs.
- Give UI appeals board authority and staff to correct state practices that make it difficult to get UI benefits.

✓ **Minimize Delays**

More than half of UI claims were delayed during the peak of the pandemic, for many workers by several months. Between 15 percent and 20 percent of workers who apply for UI during normal economic times experience delays.

- Review usefulness of state's current identity proof requirements, which frequently delay eligible claims.
- To reduce unneeded investigations, reword employer notices so employers know they should only respond to the notice if they dispute the workers claim.
- To reduce unneeded investigations, limit current practice of state-led investigations (which may be inconsistent with existing state law).
- To limit disputed claims, reassess practice of allowing all prior employers (not just the most recent employer) to dispute a UI claim.
- Assess surcharge to discourage unsubstantiated employer disputes and appeals that cause long claim delays.

✓ **Simplify Application**

The state's UI application and ongoing requirements are difficult to understand and unnecessarily lengthy.

- Stop asking workers to list detailed work history and salary information that EDD already maintains.
- Instead, make initial payment based on EDD's internal information and allow for recalculations.
- Require employers to report layoffs to speed-up UI application and increase take-up. (State law already requires employers to report new hires.)
- To shorten application and limit misunderstanding, reevaluate need for extra questions on UI application that only affects eligibility for a small number of applicants.
- Continue work to rebalance notification procedures so workers have sufficient time to respond to EDD requests, understand why EDD's decision was made, and know what to do if they disagree.

