

September 28, 2007

MEMORANDUM FOR: EMILY STOVER DeROCCO
Assistant Secretary for Employment
and Training



FROM: ELLIOT P. LEWIS
Assistant Inspector General
for Audit

SUBJECT: Mississippi's Suspension of Controls Resulted
in the Payment of at Least \$25 Million in Disaster
Unemployment Assistance to Claimants Whose
Eligibility was Unsubstantiated
Management Letter No. 06-07-004-03-315

INTRODUCTION

This Office of Inspector General (OIG) Management Letter is being issued as part of OIG's audit in response to the 2005 Gulf Coast hurricanes. The complete results of the audit will be summarized in a roll-up report.

We are recommending ETA take corrective actions to ensure the Mississippi Department of Employment Security (MDES) has adequate controls in place to safeguard Disaster Unemployment Assistance (DUA) benefits paid to future claimants, and to recover any federally funded benefits that have not been substantiated.

BACKGROUND

On August 29, 2005, Hurricane Katrina hit the Louisiana, Mississippi, and Alabama coasts, resulting in a national disaster. A national emergency was declared, making DUA available to residents of the affected areas who lost their jobs, or were unable to return to their jobs as a result of Hurricane Katrina, if they did not qualify for State unemployment compensation (UC). Additionally, on September 23, 2005, Hurricane Rita hit the Texas and Louisiana coasts, resulting in another national emergency declaration on September 24, 2005.

MDES was inundated with DUA claims as a result of Hurricane Katrina. An Office of Management and Budget Memorandum for the President's Management Council, dated October 13, 2005, provided guidance to Federal

agencies on streamlining the delivery of benefits to victims of the Hurricanes. While the memorandum provided that eligibility requirements be temporarily waived, it also required implementation of post-payment controls to ensure benefits went to only individuals who qualified for them. MDES, in accordance with guidance from ETA, suspended basic eligibility review controls to expedite handling the massive number of claims. In addition, the Governor of Mississippi issued an Executive Order (EO 940) to pay all DUA claims at the \$210 maximum weekly benefit amount (WBA).

Among the various eligibility requirements, Federal regulations require DUA claimants to provide proof of employment (POE) to substantiate that they were employed or self-employed, or about to be employed or self-employed, at the time of the disaster.

OBJECTIVES, SCOPE, AND METHODOLOGY

Our objectives were to determine the following:

1. Was proof of employment adequate to support claimants' entitlement to DUA?
2. What was the monetary impact of paying DUA claimants the maximum weekly benefit amount instead of the amount they would have received under the State law?

The scope of our audit included \$37,598,080 in DUA payments made to 10,532 Mississippi claimants for the weeks ending September 10, 2005, through June 3, 2006.

To obtain an understanding of the DUA program, we reviewed Code of Federal Regulations Title 20, Section 625 (20 CFR 625), ETA Handbook Number 356, and State EO 940; and interviewed ETA and State officials.

In January 2006, we obtained data files from MDES that included DUA payments and employer-reported wages for the weeks ending September 3, 2005, through December 11, 2005. We identified 10,755 claimants who were paid \$21,366,859 in DUA and had no wages reported in the wage file. These claimants would be required to provide POE since they had no employer-reported wages to substantiate their employment.

We randomly sampled 63 of the claimants to determine if the claimants provided adequate evidence of POE at the time of the Hurricane. We reviewed the information claimants provided as POE and determined the majority of them provided only 2004 tax documents or other documents that we considered to be inadequate. Based on these results, we decided to perform an audit to determine the magnitude of potential overpayments.

Using the same data file, we selected a statistical sample of 371 claimants. We performed a comprehensive review of the sampled claimants' documents they provided as POE, which we obtained from MDES, to determine if data adequately supported POE for the claimants at the time of the disaster.

We also reviewed 2004 tax documents for the 159 claimants that submitted them, and calculated what their WBA would have been based on this information. We compared our results with the amounts MDES actually paid the claimants to determine the impact of MDES paying the maximum WBA.

Our analysis initially covered DUA benefits paid for the week ending September 10, 2005, through April 15, 2006. We completed this analysis and conducted an exit conference with MDES on September 14, 2006, and issued a statement of facts.

MDES responded to the statement of facts and, based on its response, we determined five claimants had reported incorrect social security numbers (SSNs) and were eligible for UC. We also determined that two claimants' DUA claims were cancelled and never reinstated. We excluded these seven claimants from our analysis, leaving 364 in our sample. MDES paid the remaining claimants \$1,255,830 in DUA.

Using a second data file provided by MDES in July 2006, we extended our analysis through June 3, 2006, to include all 39 weeks of DUA payments. We made adjustments to the universe to account for claimants that had been included in the January 2006 data file but, for reasons such as incorrect SSNs and MDES redetermining that claimants were eligible for UC, were not included in the July 2006 data file. Our final universe, after these adjustments, was 10,532 claimants who had been paid \$37,598,080 in DUA.

Our sample was designed to provide estimates at a 95 percent confidence level. The estimation methodology was the mathematical formulas for simple random sampling for variables/attributes used to determine the point estimates and its standard errors.

We performed audit work at MDES in Jackson, MS from April 18, 2006, to April 21, 2006, and in our Dallas Office between April 21 and September 14, 2006. Subsequent to receiving a response from MDES on our statement of facts on October 13, 2006, we conducted additional audit work in our Dallas office through January 2007.

RESULTS

Proof of Employment was not adequate to support claimants' entitlement to DUA.

Files for 85, or 23 percent, of the 364 claimants reviewed did not contain any documentation, nor were any wages reported, to support the claimants' entitlement to DUA. We found that MDES paid these 85 claimants \$159,782 in DUA. Based on our statistical sample, we project that MDES paid at least \$3.3 million, at a 95 percent confidence level, in DUA payments on claims having no POE documentation. MDES has initiated stop payments and demanded repayment of \$96,995 from 61 of these claimants.

Further, the files of 176, or 48 percent, of the 364 claimants in our review contained documentation that did not provide adequate proof that the individuals were entitled to DUA benefits. MDES paid these 176 claimants \$702,408 in DUA:

- \$533,718 to 136 claimants (37 percent) who provided only 2004 tax documents, which did not prove that the claimant was employed or self-employed in August 2005; and
- \$168,690 to 40 claimants (11 percent) who provided other documentation, such as 2002 or 2003 tax documents, business licenses, and self-attestations, that we determined to be inadequate POE.

Based on our statistical sample, we project that MDES paid at least \$21.8 million, at a 95 percent confidence level, in DUA payments on claims having inadequate POE documentation.

Although the magnitude of this disaster resulted in large numbers of claimants who needed immediate assistance, 20 CFR 625.6(e)(1-2) provides, in part:

. . . individuals shall furnish documentation to substantiate the employment or self-employment or wages earned from or paid for such employment or self-employment or documentation to support that the individual was to commence employment or self-employment on or after the date the major disaster began.

Any individual who fails to submit documentation to substantiate employment or self-employment or the planned commencement of employment or self-employment . . . shall be determined ineligible for the payment of DUA for any week of unemployment due to the disaster.

MDES paid at least \$7.7 million more in DUA by paying the maximum WBA.

We found MDES paid 159¹ claimants \$301,387 more in DUA than it would have under State law by using the maximum WBA instead of 2004 wages or net income to calculate benefits. Based on our statistical sample, we project that MDES paid at least \$7.7 million more, at a 95 percent confidence level, in DUA as a result of applying EO 940.²

Normally, DUA WBAs are established by making a determination using the individual's base period wages. For individuals affected by Hurricane Katrina, this would mean establishing their claims based on their 2004 earnings. 20 CFR 625.6 (a)(2), states, in part:

. . . the base period to be utilized in computing the DUA weekly amount shall be the most recent tax year that has ended for the individual (whether an employee or self-employed) prior to the individual's unemployment that was a direct result of the major disaster. . . .

RECOMMENDATIONS

We recommend the Assistant Secretary for Employment and Training:

1. Continue to monitor MDES's collection efforts for all claimants who did not provide POE; and
2. Provide guidance to the States regarding the advisability of paying DUA at the maximum WBA.

AGENCY RESPONSE

In response to the draft Management Letter, the Assistant Secretary for Employment and Training stated that ETA has worked closely with MDES to ensure adequate controls are in place that appropriate documentation is obtained from DUA claimants; ETA will continue to monitor MDES's collection efforts. Regarding our recommendation to provide guidance to the states on the advisability of paying DUA at the maximum WBA, the Assistant Secretary stated that it is not possible to provide states with prospective general guidance on this matter. The Assistant Secretary's response is included in its entirety as an Attachment.

¹ Only 159 of the 364 sampled claimants provided 2004 tax information to substantiate their claims. Therefore, the remaining 205 claimants could not be included in these results.

² These claimants are also included in the projections for claimants with no POE or inadequate POE.

OIG CONCLUSION

Based on the Assistant Secretary's response, we consider the first recommendation resolved. It will be closed upon receipt of documentation to support MDES's and ETA regional staff's actions taken to address the recommendation, as described in the response.

Regarding the second recommendation, we accept ETA's explanation regarding its inability to give prospective general guidance to states about the advisability of paying DUA at the maximum amount. However, as ETA pointed out, any state action taken to alter/augment benefit amounts in response to a disaster, and how such an action would impact the calculation of DUA WBA, would have to be determined at the time it occurs. Therefore, we believe ETA should develop a procedure for addressing this issue so that it can be timely put into action when another disaster such as Hurricanes Katrina and Rita occurs.

This final Management Letter is submitted for appropriate action. We request a response within 60 days describing and documenting actions taken in response to the recommendations.

If you have any questions concerning this Management Letter, please contact David Williams, Regional Inspector General for Audit, in Dallas at (972) 850-4005.

Attachment

cc: Howard Radzely
Acting Deputy Secretary

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Regional Administrator

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SEP 28 2007

MEMORANDUM FOR ELLIOT P. LEWIS

FROM: EMILY STOVER DeROCCO *Emily Stover DeRocco*

SUBJECT: Mississippi's Suspension of Controls Resulted in the Payment of at Least \$25 Million in Disaster Unemployment Assistance to Claimants Whose Eligibility was Unsubstantiated
Draft Management Letter No. 06-07-004-03-315

This response addresses recommendations for the Employment and Training Administration (ETA) contained in the Office of Inspector General (OIG), Draft Management Letter No. 06-07-004-03-315. During an audit, in response to the 2005 Gulf Coast Hurricanes, the OIG determined that the Mississippi Department of Employment Security (MDES): 1) failed to obtain adequate proof of employment (POE) to support some claimants' entitlement to Disaster Unemployment Assistance (DUA) and 2) paid at least \$7.7 million more in DUA because it paid the state unemployment insurance maximum weekly benefit amount (WBA) to all claimants eligible for DUA.

Our response to each recommendation is provided below:

Continue to monitor MDES's collection efforts for all claimants who did not provide POE.

ETA will monitor the collection efforts of the MDES for all DUA payments that were found to have been made to individuals who failed to provide required proof of employment. ETA has worked closely with the MDES to ensure that adequate controls are in place to ensure that proof of employment at the time of a disaster, as well as proof of wages during the prior calendar year (the DUA base period), are obtained from each DUA claimant.

Provide guidance to the states regarding the advisability of paying DUA at the maximum WBA.

The ETA believes that it is not possible to provide states with prospective general guidance about the advisability of paying DUA at the maximum WBA. DUA regulations provide that WBA for DUA are calculated by the same formula used for determining state UI benefit amounts. In Mississippi, all UI beneficiaries were paid the maximum UI WBA by executive order following Hurricane Katrina; this resulted in DUA being paid at the same WBA. Any action to alter/augment UI benefit amounts in response to a disaster is a state decision; how such an action in the future would impact the calculation of DUA WBA would have to be determined at that time, taking into account the specific state

action to alter/augment its UI benefits and how that action impacts DUA benefit calculations.