

September 28, 2007

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



FROM: ELLIOT P. LEWIS
Assistant Inspector General
for Audit

SUBJECT: Louisiana's Suspension of Controls Resulted in the
Payment of at Least \$62.1 Million in Disaster
Unemployment Assistance to Claimants Whose
Eligibility was Unsubstantiated
Management Letter No. 06-07-005-03-315

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 Louisiana Department of Labor (LDOL) 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.

Louisiana, especially the New Orleans area, suffered tremendously from Hurricane Katrina, creating difficulties in administering the DUA program. LDOL had policies and procedures in place to administer the DUA program, but did not have the infrastructure and resources to deal with the after effects of a calamity the size of the Hurricanes. According to staff, LDOL was inundated with over

100,000 UC and DUA claims as a result of the hurricanes. Therefore, it temporarily removed basic eligibility review controls to expedite handling the massive number of claims, and set the initial DUA Weekly Benefit Amount (WBA) at the minimum of \$98 per week, subject to re-determination once income eligibility was established.

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 could be temporarily waived, it also required implementation of post-payment controls to LDOL to ensure benefits only went to individuals who qualified for them.

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. In addition, claimants are required to provide proof of income for the prior calendar year (in this case 2004) to establish the DUA WBA.

LDOL received DUA claims from all over the United States. Applications were taken over the phone, through the internet, and in person if the claimant was still in Louisiana. Normally, a DUA claimant has 30 days after the announcement of the availability of DUA funds is made to file an application. After filing the application, the claimant has 21 days to provide proof of eligibility. Due to the magnitude of the hurricanes, these timeframes were extended to 90 days from the date 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. Was proof of 2004 income adequate to support increases to the DUA weekly benefit amount?

The scope of our audit included \$192,632,599 in DUA payments made to 87,363 Louisiana 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 LDOL guidance to DUA claimants; and interviewed ETA and State officials. We also reviewed the Governor of Louisiana's Executive Order (EO) number

KBB 2005-34 entitled Emergency Suspension of Certain Unemployment Insurance Laws, and two subsequent extensions of that EO.

We conducted a survey in February 2006. However, at that time, thousands of pieces of paper documentation submitted by claimants to prove their eligibility were scattered throughout Louisiana waiting to be sent to Baton Rouge for scanning. We reviewed 90 DUA claims and noted only two had paper documentation. Therefore, we postponed additional audit work until LDOL had time to scan documents into its DUA electronic system.

In April 2006, we conducted a second survey of DUA claims for which documentation had been scanned into LDOL's DUA system to determine the types of documentation being received. We noted the documentation was primarily self-attestation and 2004 tax documentation. From the results of the second survey, we developed a data collection form to use in the audit.

We obtained a data file from LDOL in July 2006 and identified DUA payments for the weeks ending September 10, 2005, through June 3, 2006. We stratified the universe between benefit dollar ranges and payment periods (i.e., benefits paid after November 19, 2005 and benefits not paid after November 19, 2005.)¹ From our stratified universe, we statistically sampled 148 claims for persons who had received only DUA benefits during the above period.²

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

We used statistical projection in the Results section for DUA claims that did not have any POE documentation. For those instances where the POE was present but inadequate, we reported actual DUA costs because the number of occurrences was limited and not projectable.

We analyzed the 147 DUA claim files to determine whether they contained adequate POE to substantiate that the claimant was employed or self-employed when the disaster occurred.

¹ Prior to November 19, 2005, DUA claims were automatically paid and claimants did not have to report their work status to LDOL; also referred to as the "Autopay" period.

² During testing, we found 10 of the 148 claims represented combined DUA/UC claims. We requested a second data file from LDOL, and substituted the 10 DUA/UC claims with DUA-only claims. We excluded UC claims because they are supported by wages reported to LDOL by employers. We later determined that one of the substituted claims also included UC; therefore, it was eliminated, leaving 147 claims in our review. The information contained in the DUA files was captured in our data collection form, which we used for our analysis.

Due to the magnitude of the disaster, we accepted as POE any paper documentation that suggested the claimant was employed, self-employed, etc., at the time of the disaster. Among the documents we accepted were affidavits (whether witnessed or not), claimants' statements, and recent pay stubs. In addition, we considered any third quarter 2005 wages in the LDOL system as POE, regardless of the amount of wages or whether the employer reporting the wages was the employer listed on the DUA claim.

Because LDOL originally set the DUA WBA at the minimum of \$98 per week, we also analyzed all 21 DUA claims in our sample where the DUA amount changed to determine whether they contained adequate POE to substantiate an increase in the DUA WBA.

We performed audit work at LDOL headquarters in Baton Rouge, Louisiana, from September 18 through September 22, 2006, performed additional analysis in our Dallas office, and issued a statement of facts to LDOL on February 2, 2007. LDOL officials did not provide a response to the statement of facts.

RESULTS

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

Files for 60, or 41 percent, of the 147 claims reviewed did not contain any documentation, nor were any wages reported, to support claimants' entitlement to DUA. We found that LDOL paid these 60 claimants \$111,132 in DUA. Based on our statistical sample, we project that LDOL paid at least \$62.1 million, at a 95 percent confidence level, in DUA payments on claims having no POE documentation.

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

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.

Further, 10 of the 147 claims, with DUA costs totaling \$38,780, contained documentation that did not provide adequate proof that the individuals were entitled to DUA benefits. The most prevalent documentation submitted for justification for the DUA claims was proof of 2004 income, such as 2004 1040 form, W-2 form, and 1099 form. We did not consider this documentation to be proof that a claimant was employed or self-employed in August of 2005; it was proof that a claimant had worked or was self-employed in 2004 (at least seven

months prior to the disaster.) The documentation for one of these ten claims was an attestation that did not have the claimant's signature or the last date worked. These types of documents do not substantiate that the claimants were employed at the time of the disaster.

In order for documents to be considered acceptable, they must be able to prove that an individual was working, or was to commence working on or after the date of the disaster. 20 CFR 625.6 (e)(1), states, 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.

LDOL had mailed information packets to DUA claimants' last known addresses to inform them of the requirements for continuing to receive DUA payments. The requirements, effective November 21, 2005, included a provision that claimants had to provide POE, if it had not already been provided or the agency had no record of employment. The packet statements included the provisions of 20 CFR 625.6, as well as a description of examples of acceptable documentation, as follows:

Acceptable proof of employment and wages may include: individual income tax return for the previous calendar year, business financial statements, pay stubs/vouchers, trip tickets, crop elevator receipts/credits, and etc. Due to the severity of Hurricanes Katrina and Rita, we have developed a simple affidavit form to substantiate your employment status at the time of the disaster(s) . . . We will accept it as a document of last resort if no other proof is available. However, we will not adjust your weekly benefit amount solely on this form.

The information in the packet did not differentiate between what documentation was required for POE or what was required for proof of 2004 income (also called proof of wages). POE is proof that the individual was entitled to DUA because of employment or self-employment at the time of the disaster. Proof of 2004 income establishes the amount of the DUA WBA. Since Louisiana set the DUA at the minimum of \$98 per week, proof of 2004 income would be necessary only if the amount of the DUA WBA changed.

Proof of 2004 income was adequate to support changes in the DUA weekly benefit amount.

We found that 20 of the 21 claims, or 95 percent, where the WBA changed--in all cases the amounts were increased--had adequate documentation to support the change in the WBA.

RECOMMENDATION

We recommend the Assistant Secretary for Employment and Training:

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

AGENCY RESPONSE

In response to the draft Management Letter, the Assistant Secretary for Employment and Training stated that ETA regional staff conducted a review of LDOL's DUA program in August 2006 and gave instructions on what constitutes acceptable POE, as well as what actions are required if individuals fail to submit it. The regional staff provided its findings to LDOL and has given LDOL ongoing technical assistance. The regional staff is also monitoring LDOL's work with the State Attorney General to recover benefits paid to individuals who did not provide POE. The Assistant Secretary's response is included in its entirety as an Attachment.

OIG CONCLUSION

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

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

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

Joseph Juarez
ETA Regional Administrator

Marianne Sullivan
Assistant Secretary,
LDOL Office of Regulatory Services

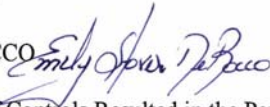
Phyllis Newby
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U.S. Department of Labor

Assistant Secretary for
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Washington, D.C. 20210

SEP 28 2007

MEMORANDUM FOR ELLIOT P. LEWIS

FROM: EMILY STOVER DeROCCO 

SUBJECT: Louisiana's Suspension of Controls Resulted in the Payment of at Least \$62.1 Million in Disaster Unemployment Assistance to Claimants whose Eligibility was Unsubstantiated
Draft Management Letter No. 06-07-005-03-315

This response addresses the recommendation for the Employment and Training Administration (ETA) contained in the Office of Inspector General (OIG), Draft Management Letter No. 06-07-005-03-315. During an audit, in response to the 2005 Gulf Coast Hurricanes, the OIG determined that the Louisiana Department of Labor (LDOL) failed to require adequate proof of employment (POE) to support the claimants' entitlement to Disaster Unemployment Assistance (DUA).

Our response to the recommendation is provided below:

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

The ETA Dallas Regional office staff conducted a review of the LDOL DUA program in August 2006 to determine if the State administered the program in accordance with DUA regulations. During this review, instructions were given on what constitutes acceptable POE and actions required if individuals fail to provide this documentation. The findings of this review were provided to Louisiana in October 2006. The Regional office staff has provided Louisiana with on-going technical assistance on this matter.

LDOL is actively working with the Louisiana Attorney General to recover benefits paid to individuals who did not provide POE, and the ETA Dallas Regional Office is continuing to monitor these efforts.