



2021 AUDIT OF UNEMPLOYMENT FRAUD

**Office of the
Ulster County Comptroller
March S. Gallagher**





ULSTER COUNTY OFFICE OF THE COMPTROLLER

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Foreword

We would like to preface our audit report by acknowledging Ulster County Personnel leadership and staff. Throughout the audit, the Personnel Department was helpful and responsive to all audit requests. Additionally, the Department has prioritized strengthening procedures and controls over unemployment claims processing and reporting. This accountability has accelerated under new management. Personnel staff took appropriate action in quickly denying all fraudulent claims, and by reporting possible data security concerns to the appropriate agencies for additional investigation.

Objectives

Beginning in the spring of 2020, Ulster County began receiving an influx of unemployment insurances claims as compared to periods past. Additionally, many of the claims were clearly fraudulent, as they were for employees actively employed by the County. The Comptroller's Office received several complaints from employees who claimed they were not notified by the Personnel Department of the fraudulent claims filed in their names in a timely way. After some additional investigation, it was determined that this increase in fraudulent claims was not unique to Ulster County, as the New York State Department of Labor (NYS DOL) reported receiving more fraudulent claims during this period than any other period in recent history. As a result in this increase in claims activity and the existence of a high number of fraudulent claims, the Office of the Ulster County Comptroller initiated an audit of unemployment claims processing.

As a result of our initial inquiry and in response to the concerns related to possible data breaches, our audit sought to:

- Determine if unemployment claims filed in the name of Ulster County employees were handled in accordance with current law and Ulster County policy;
- Determine the number of fraudulent claims received by the County and ensure those claims were appropriately denied by NYS DOL and not charged to the County;
- Verify the County is receiving the stated contractual services procured through third party vendor PeopleSystems, regarding unemployment insurance claims processing;
- Review the County's Information Protection Policy and internal controls over the housing and protection of employee and other individual's data.

Executive Summary:

Why this review is important

Both the County and employers across the state faced a significant increase in fraudulent unemployment claims. The County is responsible for safeguarding employees' private personal information, including records needed to submit an unemployment claim.

Findings

Our audit revealed that the Personnel Department properly identified fraudulent unemployment claims and challenged those claims. In addition, the Personnel Department staff appropriately notified the Sheriff's Department and the Information Systems Department about the potential unemployment insurance fraud. However, it appears that some employees may not have been notified by the Personnel Department that they were the victims of identity theft. The Personnel Department has since changed the process for addressing unemployment claims.

What we recommend

We recommend that any instance of fraudulent unemployment claims results in contacting the affected individual and supplying relevant resource materials regarding identity theft and credit protection.

Findings & Recommendations

Finding 1 - Some employees were not notified of fraudulent claims.

Condition: During the audit period we determined that over 40% of claimants stated that they were not notified that a fraudulent claim was made in their name and therefore were not advised on the appropriate steps to proactively protect themselves from identity theft.

Effect: Without knowledge that an individual's private personal information was being utilized to commit unemployment fraud that individual was not directed to appropriate resources and instructed to proactively protect themselves. Impacted individuals should have been directed to report it to Department of Labor and to implement a credit freeze or fraud alert on their credit reports or monitoring services. Information should have been distributed to inform impacted individuals that free credit reports were available through December 31, 2022, every week, from all three national credit bureaus.¹

Cause: The claims were traditionally handled solely by the Director of Employee Relations and then submitted to a third-party vendor. The number of fraudulent unemployment claims received during the audit period was unprecedented and were received during the height of the pandemic. However, due to the sensitivity of the private personal information required to generate a claim, additional resources should have been utilized to ensure that impacted individuals were notified of fraudulent claims in their name.

Criteria: Section 3 of the Ulster County Security or Privacy Breach Incident Procedure (revised 2/25/2015) specifies that "[t]he County is required to notify all individuals when there has been or is reasonably believed to have been a[n] unintended disclosure or compromise of the individual's private information."

Recommendation 1: We recommend that the Ulster County Security or Privacy Breach Incident Procedure be revised to require that employees be promptly notified that they have been the victim of identity theft regardless of whether or not the source of the compromise was an Ulster County system. As a part of the notification, the procedure require employees be provided information about identity theft and steps to take in case of a breach.

Recommendation 2: The procedure for handling unemployment claims was updated in May 2021 to direct the handling of claims to the third-party vendor, PeopleSystems. The claims are then reviewed by the Director of Employee Relations and if it is determined to be fraudulent, PeopleSystems directly reports fraudulent claims to Department of Labor. The updated procedure indicates that "where possible, the claimant is notified by the Director of Employee Relations..." however, due to the sensitivity of the private personal information required to file a claim we recommend that all fraud related claimants should be notified as soon as possible.

Scope

The scope of this audit consisted of an audit period from January 1, 2019, through June 30, 2021, which was expanded to include the first quarter of fiscal year 2022 data as it became available. The analysis included a review of the County's unemployment claims and related procedures, as well as the required deliverables for the period. The request included the following:

- Any policies or procedures in place regarding the receipt of and response to unemployment claims received, and the investigation and/or reporting of fraudulent claims.
- Any communications with the Information Services Department regarding the confidentiality of employee information.
- Any communications with the Sherriff's Office regarding fraudulent unemployment claims.
- The quarterly reports received from Ulster County's unemployment claims manager third-party vendor PeopleSystems.
- Copies of all emails from PeopleSystems notifying the County that a claim had been filed.
- Copies of all email responses from the Director of Employee Relations to verify receipt and elements of the claim.
- Copies of the questionnaires completed by the Director of Employee Relations sent by PeopleSystems.
- Notification of fraudulent claims reported by PeopleSystems to NYS DOL for all fraudulent claims identified.
- Any NYS DOL results of investigation for fraudulent claims.
- Any other communications or reports from PeopleSystems with regard to the provision of services in the attached contractual scope.

We received the procedures for handling unemployment claims and tested the claims for the audit period, including contacting affected employees to determine if they were notified that a fraudulent claim was filed in their name with the State. We noted that procedures were changed in May 2021 to make PeopleSystems the recipient of claim information directly from NYS DOL, and we tested the unemployment claims to the relevant procedures at the time the claim was received. We elected to test an additional quarter (Q1 of 2022) to ensure that updated procedures were operating as designed.

Scope Limitations

We attempted to achieve the objective of determining the number of fraudulent claims received by the County and ensuring those claims were appropriately denied by NYS DOL and not charged to the County. We were able to determine the total number of fraudulent claims, but due to the timing of the determinations of the unemployment claims by NYS DOL we were unable to determine if all claims were appropriately denied. New York State Department of Labor identified 425,000 in fraudulent unemployment claims during 2020, after it became apparent that fraudsters had targeted New Yorkers currently employed by government, education, healthcare, nonprofits and large private sector employers, filing claims on their behalf often using a fake address.² Due to the high volume of fraudulent claims NYS DOL has lagged in the processing of the determinations of contested claims and many claims remain in process. Our objective could not be achieved as we are unable to audit the State procedures in regard to processing contesting unemployment claims and the majority of final determinations have not been made for the test population. Without testing the procedures to conclude the final determination or receiving the final determination we cannot conclude if fraudulent claims were appropriately denied.

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards (GAGAS). 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 that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Background

During the audit period and continuing presently, Ulster County has a contract with PeopleSystems, a third-party unemployment cost mitigator, to manage the unemployment claim process. The contract in place during the testing period was for an annual contractual fee of \$4,131.60 and remains at that rate in 2022. The vendor is slated to receive 25% of any rate recoveries as a result of the vendor's protests. The County received only one refund during the testing period and it was related to a NYS DOL automatic reimbursement of \$85,941.07 as a result of an Executive order that authorized NYS DOL to lower experience rating charges during the pandemic.

The scope of the contract included reviewing claims, processing those claims with NYS DOL, auditing the claims and contribution rates for accuracy, and appealing any inappropriate benefits. We reviewed all quarterly and annual reports prepared by PeopleSystems and written communications between PeopleSystems and Ulster County Personnel staff during the testing period. The timing issue described in the scope limitation above impeded our ability to review whether PeopleSystems protest and appeal of claims as required by the contract is/was successful. Ulster County continues receiving, reviewing, and processing services under the contract.

Ulster County began to receive substantially more claims than usual during the spring of 2020. This increase in claims was mirrored by all employers at the state level. The New York State Department of Labor received more fraudulent unemployment claims in a five-month period during 2020, than it did for a ten-year period prior.³

[1] Federal Trade Commission (September 8, 2022) Identity Theft Guidance. <https://www.identitytheft.gov/#/unemploymentinsurance>

[2] New York State Department of Labor. (February 2, 2021). The New York State Department of Labor Stops Fraudsters from Stealing More Than \$5.5 Billion in Unemployment Benefits During Covid-19 Pandemic. <https://dol.ny.gov/news/new-york-state-department-labor-stops-fraudsters-stealing-more-55-billion-unemployment>

[3] New York State Department of Financial Services. (August 13, 2020). NYS Department of Labor Thwarts More Than \$1 Billion in Unemployment Insurance Fraud During Pandemic, Stops More Than 40,000 Fraudulent Claims. https://www.dfs.ny.gov/reports_and_publications/press_releases/pr202008131

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Audit Review and Response

Upon review of the Comptroller's Audit Report on Fraudulent Unemployment Claims, Personnel would like to submit additional information to be used in the final report.

To begin we would like to put into context the truly unprecedented situation that these claims were.

In 2018 the County received a total of 34 claims

In 2019 the County received a total of 28 claims

In 2020 the County received a total of 143 claims

In 2021 the County received a total of 423 claims

The Director of Employee Relations (D.E.R.) had to try to manage the influx on top of his regular day to day duties. During this time there was little to no support from available staff due to the Governors mandate of a 50% reduction in workforce. DOL was handling outreach to affected individuals. Be that as it may, the D.E.R. did try to reach employees by email, phone calls, and even reaching out to payroll supervisors if there was no other way. He was unable to continuously try to contact affected individuals. There were instances where the County was never notified of claims from DOL (ex. Laurie Sheeley) and therefore could not be acted on. The D.E.R took this very seriously by taking an aggressive approach and reached out to both IS and the Sheriff's office to start their investigations where it was determined that there was no breach .

Thank you,

Dawn Spader
Personnel Director