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THE SACRAMENTO BEE

California overpaid as much as \$55B in unemployment claims. Will it ever get the money back?

BY DAVID LIGHTMAN

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The state’s unemployment agency potentially overpaid an **estimated \$55 billion in recent years to people who may not have been eligible for jobless benefits**, a California state audit has found.

It is likely most of that money will never be recovered.

The **state audit** painted a bleak picture of how an often chaotic California Employment Development Department has dealt with the overpayments. Most of the money came from the federal treasury.

Some of the overpayments were the result of **massive fraud** during the COVID pandemic in 2020 and 2021, mostly in the federally funded **Pandemic Unemployment Assistance (PUA)** program — an amount estimated at about \$20 billion. So far, the state has recovered only about \$6 billion.

But the overpayment total also includes billions more that was paid to people who should not have been receiving the money, the audit said. And most people will not have to repay the excess amounts they received.

EDD has sought permission from the Labor Department to allow people to waive the requirement that the excess benefits be repaid. In some cases that waiver was granted. Monica Vereen, a U.S. Labor Department spokeswoman said the agency is reviewing a waiver request made in February.

“Individuals are responsible for paying back the federal government for overpayments, and California considers those potential debts a liability,” said.

The Labor Department since last year has been headed by **Julie Su**, who was in charge of the California agency that included EDD until 2021. Su is acting secretary, unable to get confirmed by the U.S. Senate as secretary partly because of questions about how the state Labor and Workforce Development Agency managed EDD under her leadership.

GET THE MONEY OUT QUICKLY

The PUA program served people who traditionally would not qualify for unemployment benefits, such as independent contractors and self-employed people. With unemployment soaring in the spring of 2020 as the pandemic sent the economy reeling, the mandate from Washington was to **get money out quickly**.

EDD managed the California program, and at first often disregarded the usual safeguards that screened potential beneficiaries.

Loree Levy, EDD spokeswoman, said PUA helped support workers who typically don't qualify for benefits.

“Individuals generally relied on these payments for their livelihoods, made purchases, and entered into financial commitments based on these payments,” she said.

She explained that federal guidance on the PUA program evolved quickly in 2020.

For example, the requirements for proof of self-employment didn't come until later in the program, after many had already collected benefits.

“In alignment with the Department of Labor guidance to states, collecting repayment of these benefits would undermine many individuals' financial stability and the purposes for which the benefits were paid,” Levy said. “While we went back and were able to collect such proof from some claimants, others did not provide what was needed.”

In many cases, Levy said, people were already re-employed and they “considered this something they no longer needed to worry about and did not follow up.”

“We would not consider these cases fraud, just a situation where they didn’t provide the eligibility proof and any associated overpayment was likely not their fault,” she said.

CHAOS AT EDD

It’s not altogether clear if the \$55 billion figure is accurate. While the estimate came from EDD, the audit says, the agency “was unable to provide sufficient information substantiating this additional estimate.”

Though the audit sought to learn just how much EDD overpaid, getting a reliable estimate **became a struggle**.

The audit said EDD “did not properly estimate the total population of ineligible unemployment insurance benefits paid using pandemic program funding from the federal government.”

As a result, the audit said, the agency “was unable to provide accurate and complete financial information for fiscal year 2021–22 for the federally funded portion of its unemployment insurance program.”

In June, 2022, EDD did offer an estimate of ineligible payments — a sum of \$26 billion. But, the audit found, “errors in its process have resulted in this estimate being unreliable.”

The estimate, it said, relied on **incomplete information** because “EDD’s methodology for developing the estimate inappropriately excluded certain payments that it confirmed to be ineligible.”

The estimate also did not include what the audit called “a sizable population of payments to claimants who did not provide the required documentation substantiating their self-employment or employment, or their earnings.”

EDD then revised its estimate to \$55 billion, a figure applicable if one includes every claim in which some eligibility question remains. In many cases, the individuals may have been eligible for the benefits they received but EDD wasn’t able to collect the proof that later became required.

The audit recommended that EDD change how it estimates ineligible payments, including “multiple levels of review” and “provide guidance and training to both program and accounting staff” on what’s required to be reported.

EDD responded that it agreed with the more detailed review system. But it said that the auditor had sought a change in how it addressed ineligible payments.

The auditor’s office countered that EDD’s response was not adequate. EDD indicated it is still actively working investigations with federal, state and local partners on suspected fraud related claims.

But for non-fraud related claims, the department is awaiting word from the U.S. Department of Labor to consider older non-fraud pandemic workload resolved to focus resources on current claims and help remove the older non-fraud overpayment liability from the books.

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