



Unemployment Insurance Advisory Committee

Meeting details

Date: Wednesday, June 14th, 2023

Time: 10:00am - 12:00 pm

Location: Zoom

Committee members and alternates present

Employee Representatives

- Joe Kendo, Washington State Labor Council
- Cindy Richardson, UNITE HERE Local 8
- Josh Swanson, Operating Engineers 302
- Brenda Wiest, Teamsters 117

Employer Representatives

- Bob Battles, Association of Washington Business
- Julia Gorton, Washington Hospitality Association
- Tammie Hetrick, WA Food Industry Association

General Public Representatives

- Anne Paxton, Unemployment Law Project
- William Westmoreland, Pac Mtn WF Dev Council

ESD staff

- Joy Adams
- Danielle Cruver
- Joshua Dye
- Vaughn Ellis
- Camille Galeno
- Caitlyn Jekel
- Matt LaPalm
- Marypat Meuli
- Scott Michael
- JR Richards
- Stephanie Sams

Committee members and alternates absent

- Josie Cummings, Building Industry Association of Washington (employer rep)
- Monica Holland, Northwest Justice Project (alternate public rep)
- Sybill Hyppolite, Washington State Labor Council (employee rep)
- Allyson O'Malley-Jones, Northwest Justice Project (alternate public rep)
- Courtney Williams, Community Employment Alliance (public rep)

- Dan Zeitlin

Summary

Meeting Recorded

This meeting was [recorded](#) and also livestreamed by TVW.

Welcome and Opening Remarks

- Unemployment Insurance Customer Support Director, JR Richards, welcomed everyone and asked committee assistant Camille Galeno to call roll.

Meeting Minutes

JR Richards requested that everyone review the March 2023 meeting minutes and provide their feedback. Josh Swanson made a motion to approve the minutes and Bob Battles seconded the motion. JR asked for all members in favor to say, “Aye.” All members responded, “Aye”. JR asked members that oppose to say, “Nay.” No one responded. The March 31st, 2023 meeting minutes were approved.

Agenda

JR Richards reviewed the following agenda items (also see Addendum I.)

- Legislative Session & Rulemaking Updates
- Project Portfolio
- EAMS Project Closeout
- 2022 Average Annual Wage & WBA
- Overpayments Update
- Meeting Cadence

Agency Request Legislation - update

JR Richards handed the meeting over to Caitlyn Jekel, Government Relations Director, ESD and Scott Michael, Legal Services Manager, ESD to provide updates on the legislative session and rulemaking. Caitlyn and Scott provided updates on the following bills and their rulemaking impact (table on next page).

Bill #	Short title	Description	Rulemaking Impact
1106	Voluntary Quits	<p>Adds new good causes for quit for UI, expands “immediate family” to “family”, requires a report to the legislature.</p> <p>Sunsets VQ for care availability in 2029.</p>	<p>Rulemaking will be done in phases, based on the effective date of the various pieces of the bill.</p> <p>First phase: defining “family member,” as opposed to “immediate family member”</p>
1458	Apprenticeship UI	<p>ESD convene a work group for the purpose of identifying and addressing legal and procedural barriers faced by eligible claimants participating in apprenticeship programs.</p>	<p>Any rulemaking will depend on recommendations of the workgroup</p>
1570	TNC Benefits	<p>Provides unemployment insurance to drivers providing services for transportation network companies (TNC).</p> <p>Changes the conditions under which an employer may be relieved of benefit charges when the employer continues to provide part-time employment for claimants of unemployment insurance.</p>	<p>Rulemaking will likely be done in phases as stakeholders work to agree on items that could not be resolved last year.</p> <p>First phase: how to count hours worked for purposes of TNC drivers; how to decide whether an employer is continuing to offer a claimant part time work in “substantially the same amount.”</p>

Bob Battles asked a question regarding bill #1106 and the expanded definition of Paid Family Medical Leave (PFML), and whether there will be separate analysis on the PFML review. No answer on this from ESD currently, as the plan is to do a copy. Bob commented he will review and return to this topic at a later date.

Josh Swanson asked a question regarding bill #1458 and the process and timeline for the formation of a work group. Caitlyn answered that ESD is working to bring together subject matter experts, and a starting call will be scheduled soon with a short list of individuals representing registered apprenticeship programs that are interested in engaging with ESD. Josh commented that apprentices are currently completing their training in preparation to begin work, and that he would be happy to assist with the workgroup process and looks forward to the results.

Bob Battles commented that he will reach out with a list of business names for the workgroup. Josh asked what the work group representation is. Caitlyn responded that the bill did not dictate the membership of the representation, and that ESD is looking into dispersing the work among members of the group based on interest.

Scott Michael provided an overview the rulemaking impact of bill #1570 providing unemployment insurance to transportation network company drivers.

Caitlyn and Scott then advanced to the next slide and provided updates on the following bills:

Bill #	Short title	Description	Rulemaking Impact
1684	SOC - Tribes	Establishes that federally recognized tribes may opt-in to SOC reporting requirement but are not required to include SOC data in quarterly reports.	Adopt rules that allow tribes to report or not report SOC Codes or job titles as they wish; no application or form required
5176	Employee owned co-ops	Rules pertaining to corporate officers do not apply to employee-owners of employee cooperative corporations, cooperative associations, and limited cooperative associations - even if the officer is only performing services as an officer.	Expedited rules have already been proposed. No objections have yet been received.
5331	Work Search	Removes the sunset for the Department's authority to prescribe appropriate work search activities and adds a report to the Legislature.	No plans to adopt any rules

No questions were raised on these items. Caitlyn then advanced to the next slide and provided updates on the following:

Bill #	Short title	Description	Rulemaking Impact
5187(225)(25)(a)(b)	UI Shortfall	\$10,000,000 GF-S for FY 2024 and \$11,227,000 GF-S for FY 2025 are provided solely to address a projected shortfall of federal revenue. Nov 1, 2023, and Nov 1, 2024, report on how funding to make up for the shortfall in federal revenue is being utilized and recommendations for long-term solutions to address future decreases in federal funding.	No rules planned
5187(225)(26)	Pandemic era overpayment waiver processing team	\$11,976,000 general fund—state appropriation for fiscal year 2024 is provided to fund a dedicated overpayment waiver team.	No rules planned
5187(225)(8)	Continuous Improvement Team	\$3,136,000 of the unemployment compensation administration account—federal appropriation is provided solely for a continuous improvement team to make customer, employer, and equity enhancements to the unemployment insurance program.	Rules may or may not be proposed based on recommendations of the team

No questions were raised. Caitlyn advanced to the next slide and provided updates on the following:

Bill #	Short title	Description	Rulemaking Impact
5187(225)(32)	Interview no-show data	\$10,000 of the general fund—state appropriation for fiscal year 2024 is provided solely for the department to design a form for employer use to voluntarily report no show, no call interview data. This data shall be used to inform potential trend analysis or policy development for job search compliance.	No rules planned
5187(225)(31)	Excluded workers research	\$35,000 of the employment service administrative account— state appropriation is provided solely for the department to provide research and consultation on the feasibility of replicating the unemployment insurance program for and expanding other social net programs to individuals regardless of their citizenship status.	No rules planned

Julia Gorton remarked that she’d be happy to assist with connecting employers to the interview no-show data project. Julia also asked what types of activities might be done related to the excluded workers research. Caitlyn answered that as this work concluded a couple of years ago, ESD is not actively engaging in additional research, but are responding to requests as they come in.

Caitlyn handed the presentation over to Scott Michael to discuss agency-initiated rulemaking activities:

Short title	Description	Rulemaking Plan
Permanent Overpayment Rules	Current emergency rules: <ul style="list-style-type: none"> • Adopt USDOL-approved blanket waivers • Permit folks to get a second chance to ask for a waiver of pandemic-era overpayments • Allow conditionally paid benefits from the pandemic era to be waived. 	In permanent rule: <ul style="list-style-type: none"> • Adopt USDOL-approved blanket waivers • Permit folks to get a second chance to ask for a waiver of pandemic-era overpayments • Allow conditionally paid benefits to be waived, even if they are outside the pandemic era
Define conditional payment start and end dates	Under current law, the Department has 30 days to change an allowance of benefits to a denial of benefits. Current rules allow this 30-day deadline to be paused while the claimant is being conditionally paid so the Department can investigate an issue. However, the beginning and end date of this conditional payment/investigation period is not clearly defined in rule.	Adopt rule that says the conditional payments begin when the Department detects an eligibility issue and tells the claimant they are being paid conditionally; ends when the Department issues a determination on the eligibility issue.
Failure to Respond	Current rule says benefits should be denied indefinitely until a claimant responds to a request for information from the Department	Adopt rule that ends the denial of benefits when the claimant provides the requested information <u>or</u> when the Department no longer needs the information it requested

No questions were raised. Committee Chair JR Richards then presented the following three slides and gave an overview of ESD’s Portfolio Management:

What is Portfolio Management

At the highest level, Project Portfolio Management has *four basic components*:



Project Portfolio Success

- Cost effectiveness
- Project agility
- Visibility to commitments
- Strategic alignment

UI Portfolio
Prioritized Product Roadmap

As of June 2023

Portfolio	Priority	Product Roadmap	Project Name	Value
Unemployment Insurance	1	Now	Pandemic Era Overpayment Relief	Provide financial relief to citizens who received UI overpayments during the pandemic period through no fault of their own
Unemployment Insurance	2	Now	Bill 5187 (Proviso 225/26) Dedicated OP Processing Team	Implement a dedicated overpayment waiver adjudicator processing team to process the unemployment insurance overpayment caseload backlog.
Unemployment Insurance	3	Now	Fraud SQRs	This work will speed up benefits arrival to claimants that get ensnared in excessive fraud flagging and will decrease fraud issues causing high call volume for our staff
Unemployment Insurance	4	Now	Treasury SQRs Accounting Accuracy	Create and update reports and calculations needed for ESD to meet DOL requirements.
Unemployment Insurance	5	Now	SB 5193 Letters Project	Plain talk and revise all determinations and redeterminations directly related to a specific claimant's case.
Unemployment Insurance	6	Now	Enterprise Contact Center as a Service (CaaS)	Implement new technology for UI claim phone support. The new tech allows faster ramp up for new staff, and quicker implementation of new phone call queues as needed.
Unemployment Insurance	7	Now	HB 1684 Remove mandatory SOC Code reporting for tribes	Update our UI filing code so that federally recognized tribes are not required to submit SOC codes and do not see any errors or warnings when they do not provide that information.
Unemployment Insurance	8	Now	UI Virtual Assistant Improvement Project	This work will help optimize the knowledge base queries to provide the correct response to client queries in both Web Chat and voice channels
Unemployment Insurance	9	Now	ARPA - UI Equity Grant - Translation Services	This work addresses the inequity of providing same level of service and meaningful access to translations for limited English proficiency claimants
Unemployment Insurance	10	Now	Tiger Teams - Adjudication standard work improvement and migration project	Create and update reports and calculations needed for ESD to meet DOL requirements.
Unemployment Insurance		Now	Bill 1570 Transportation Network Companies	Provides unemployment insurance to drivers providing services for transportation network companies (TNC)
Unemployment Insurance		Now	Bill 5331 Work Search	Tracking Only-Continuation of authority we already have: Removes the sunset for the Department's authority to prescribe appropriate work search activities and adds a report to the Legislature.
Unemployment Insurance		Next	Bill 5176 Cooperative Biz UI	Rules pertaining to corporate officers do not apply to employee-owners of employee cooperative corporations, cooperative associations, and limited cooperative associations - even if the officer is only performing services as an officer.
Unemployment Insurance		Next	Bill 1458 Apprenticeship UI	ESD convene a work group for the purpose of identifying and addressing legal and procedural barriers faced by eligible claimants participating in

No questions were raised. The meeting was paused for a 10-minute break.

The meeting reconvened after the break, and JR welcomed Judy Dew, ESD's IT Tax and Wage Systems Manager to discuss the Employer Account Management System (EAMS) project closeout. Judy presented on the following bullet points regarding the EAMS Legacy System Replacement:

EAMS Legacy System Replacement

- **New features/customer facing benefits:**
 - Provide near real time data between EAMS and NGTS
 - Automatic validation of bulk files
 - Added Standard Occupational Codes (SOC) HB 2308
 - Updated User Screens
 - Embedded a customer feedback link for Users
 - Updated new Payment screens
 - Added zero hour reasons

NGTS = next generation tax system.

Bob Battles asked: how does the new EAMS system communicate with other internal systems such as paid family and medical leave? How are upgrades such as this made compatible with employer and employee use? Judy answered that the main system the new EAMS communicates with is NGTS. There are talks about modernization for a one-stop-shop for employers to file taxes. JR also confirmed that this type of info-sharing modernization is in the works as a longer-term goal, where the EAMS replacement was an ongoing project which needed to be completed for the benefit of employers.

JR then welcomed Matt Klein, Operations Research Specialist to discuss the Average Annual Wage for 2022 and WBA. Matt presented on the following:

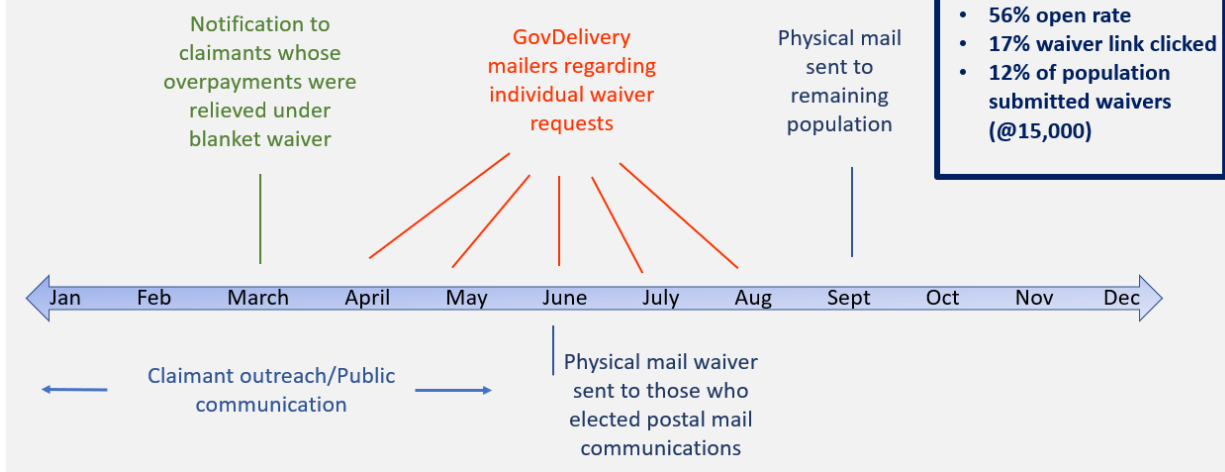
2022 Average Annual Wage & WBA

- **Per RCW 50.04.355 and 50.20.120, the minimum and maximum benefit levels, as well as the annual taxable wage base, are set each year based upon the average annual/weekly wage.**
 - "the minimum amount payable weekly shall be 20 percent of the "average weekly wage" for the calendar year preceding [June 30, 2023]"
- **2022 Average Annual Wage: \$84,167**
 - 2% increase over the 2021 average annual wage
 - Driven by a 5.5 percent increase in covered employment and a 7.6 percent increase in total earnings, which grew by nearly \$20.3 billion in 2022.
- **The maximum weekly benefit amount for the period beginning July 2, 2023, is \$1,019, while the minimum weekly benefit amount will be \$323.**

Joe Kendo asked what the current minimum and maximum benefit amounts are. Matt answered that the amounts are \$317 (min) and \$999 (max).

JR then provided an update on ESD's overpayment project. Using the following three slides, JR discussed the overpayment outreach campaign, how equity and good conscience apply to this project, and gave an overview of the project timeline including the hiring process for the overpayment waiver team and a plan for waiver assistance:

Outreach campaign



Determining fault & equity and good conscience



Least clear

Most clear

Claimant #1

Told adjudicator during phone interview they were caring for a sick family member during the weeks they claimed, determined not able and available for work. Would have been eligible for PUA but didn't know to apply.

Claimant #2

Paused claiming for an extended period. When they resumed claiming, the claimant backdated the missed weeks and were paid conditionally. They later revealed they were incarcerated at the time. They did not understand they were not eligible and could not reach the department timely for assistance.

Claimant #3

Conditional approval was granted, pending the claimant providing additional documents required in order to make a claim determination. Claimant was contacted multiple times and never responded, claim was denied, and the weeks paid were owed back. Decision was upheld at OAH.

Claimant #4

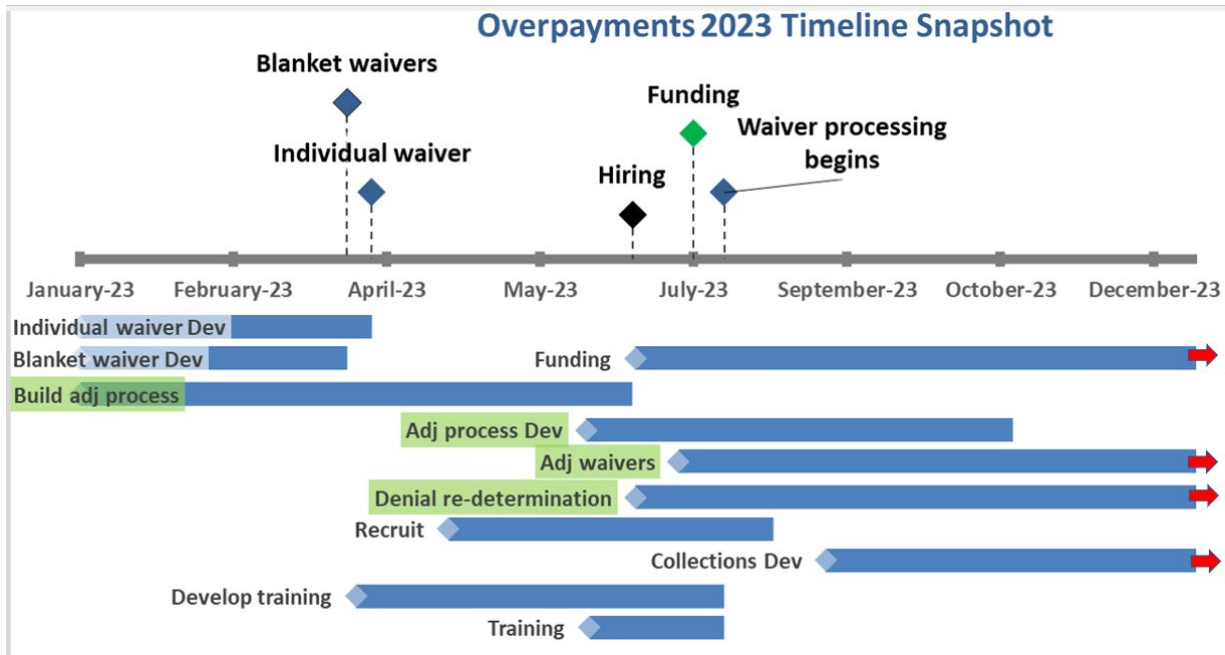
High wage earner with no language or access barriers, claimed multiple weeks of benefits and answered on all weekly claims that they were not earning wages. Later revealed they were working and collecting. Benefits received were overpaid.

Julia Gorton asked for clarification on example #2 and noted that there are concerns around providing benefits to an individual who is incarcerated and therefore not able and available to work. JR clarified that the individual provided information to ESD on their incarceration after being released and were paid benefits anyway. Joy Adams, Deputy Director of Employment System Policy and Integrity, ESD also added that the agency carries more of the fault in this situation because the claimant provided the relevant information and payment was made regardless. Bob Battles asked what allowed for the conditional payment to be made. Joy answered that this would be an error investigated thoroughly by

quality assurance. JR added that in this case there was a breakdown in new programming with changing rules.

Brenda Wiest asked where limited English proficiency fits into this and whether this would be an area captured by fault, equity and good conscience. JR responded that yes, it would and that as ESD looks at these on an individual basis, as much space as possible is being created for fault, equity and good conscience, and for the claimant to tell their story fully.

JR then moved on to the next slide and presented an overpayments project timeline overview:



With no further questions on overpayments, JR then moved to the topic of UIAC meeting cadence. The following meeting cadence was proposed:

Proposed meeting cadence

Late July	<ul style="list-style-type: none"> • June Trust Fund Report • Legislative proposals • Budget overview • Rulemaking Update • Updated taxable wage base 	January	<ul style="list-style-type: none"> • One-hour legislative session meeting • Rulemaking Update
Late August / Early Sept	<ul style="list-style-type: none"> • Legislative and budget submissions to OFM/Gov office: <i>Likely committee action</i> • Minimum Weekly Benefit Amount report • State Quality Service Plan Update • Rulemaking Update 	February	<ul style="list-style-type: none"> • One-hour legislative session meeting • Rulemaking Update
October / November	<ul style="list-style-type: none"> • Trust Fund Report • State Quality Service Plan Submission to USDOL • Minimum Weekly Benefit Amount report • Rulemaking Update • Tax rate notices to employers 	May	<ul style="list-style-type: none"> • Legislative session wrap-up • Rulemaking Update
December	<ul style="list-style-type: none"> • Governor’s budget • Trust Fund Report • Legislative session prep • Rulemaking Update 	June	<ul style="list-style-type: none"> • State Quality Service Plan update • Work search report presentation • Rulemaking Update

Brenda Weist commented that this cadence makes sense but flagged early September (post Labor Day) as a busy time. Bob Battles agreed that a once monthly meeting is not necessary outside of legislative session. Josh Swanson also approved of this proposed schedule, with a note that early September near Labor Day is busy. Julia Gorton moved to approve the meeting cadence. JR called for all in favor, and all opposed. There were no opposed, and the above meeting cadence was approved.

Action Items

None

Public Comments

JR reminded meeting participants that if they would like their comments captured in the meeting minutes to please email them to Camille.galeno@esd.wa.gov

Lexy Salas asked for a list of the types of blanket waiver additions that ESD submitted to DOL. Lexy was provided with a list via email.

Adjourned

JR Richards thanked everyone for joining today and ended the meeting.

Next meeting

August 2nd, 2023, from 10:00 a.m. to 12:00 p.m. via Zoom.

Addendum 1

Agenda

Unemployment Insurance Advisory Committee (UIAC)

Wednesday, June 14th, 2023 | 10:00 am - 12:00 pm | Via Zoom | 212 Maple Park Ave SE, Olympia, WA 98501

Time	Topic
10:00 am	Welcome from JR Richards, Unemployment Insurance Customer Support (UICS) Director, Employment Security Department (ESD) <ul style="list-style-type: none"> o Agenda Overview
10:05 am	Approval of March 31st, 2023 Meeting Minutes
10:10 am	Legislative Session, & Rulemaking Update <ul style="list-style-type: none"> - Caitlyn Jekel, Government Relations Director, ESD - Scott Michael, Legal Services Manager, ESD
11:00 am	Break
11:10 am	Project Portfolio <ul style="list-style-type: none"> - JR Richards, Unemployment Insurance Customer Support (UICS) Director, ESD
11:20 am	Employer Account Management System (EAMS) Project Closeout
11:25 am	Overpayment Project Update <ul style="list-style-type: none"> - JR Richards, Unemployment Insurance Customer Support (UICS) Director, ESD
11:35 am	Meeting Cadence <ul style="list-style-type: none"> - JR Richards, Unemployment Insurance Customer Support (UICS) Director, ESD
11:50 am	Future Agenda Topics
11:55 am	Public Comment
12:00 pm	Adjourn

For more information, please visit the UIAC website at <https://esd.wa.gov/newsroom/UIAC>

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