



Interim Report: Review of the Virginia Employment Commission

Study mandate

- Review the operations of the Virginia Employment Commission (VEC), including:
 - COVID-19's impact on VEC and effectiveness of response;
 - administration of Unemployment Insurance (UI) program, including overpayments, appeals, and customer service;
 - IT systems and UI modernization project;
 - ability to connect Virginians with meaningful employment opportunities;
 - sufficiency of agency staffing, funding, and management; and
 - UI benefits compared to other states.

Reporting timeline

September 20

- Interim briefing and recommendations

November 8

- Final briefing and recommendations
- VEC to provide update on implementation of September JLARC recommendations (contingent on lawsuit)

In this presentation

Impact of COVID-19 on VEC and VEC preparedness

Timeliness of first UI payments, adjudications, and appeals

Accuracy of UI claims processing

Call center performance

UI IT modernization project

Agency management of COVID-19 response

Finding

COVID-19 pandemic has significantly increased VEC staff's workload and caused temporary closures of central office, field offices, and call centers.

VEC has processed and paid substantially more claims during COVID-19 than at any other time

- Many UI claims processed (March 2020–July 2021)
 - 1.9M first payments issued
 - 207K issues adjudicated*
 - 24K appeal decisions
- \$13.9B total state and federal UI benefits paid out
 - \$2.5B for traditional state UI benefits

*Adjudication = A portion of claims have potential eligibility issues that require closer review by VEC staff. This review is called "adjudication." Claims can have multiple "issues" that require separate adjudications. Some claimants receive payments while issues with their claim are being adjudicated, depending on the circumstances.

Addition of complex federal UI programs significantly increased VEC staff workload

- Six federal UI programs implemented starting April 2020
 - PUA* program provided UI to previously ineligible individuals (e.g., independent contractors)
- VEC staff required to add federal programs to UI IT system and UI processes
- Initial guidance from U.S. DOL on how to implement programs unclear; guidance evolved over time
 - *Examples – Changes in requirements for PUA eligibility; new identity verification requirements*

*PUA = Pandemic Unemployment Assistance

Need for VEC assistance placed unprecedented demands on staff

- 10x more UI claims in 2020 (1.4M+) compared with 2019 (136K)
- Staff overtime increased over 1,600%*
- VEC hired a net 473 full-time staff between January 2020 and August 2021
- Requests for staffing assistance not granted
 - No exemption from state hiring requirements (e.g., could not convert part-time staff to full time)
 - No staff from other state agencies or National Guard
 - In contrast, some other states provided their UI agencies with such assistance (NC, OH, NH, WA)

*2019 overtime compared with March–December 2020.

Staffing increases led to need for more space

- Several offices expanded or opened to accommodate additional VEC staff and contractors
 - Adjudication center (June 2020)
 - Appeals office (September 2020)
 - Call center (March 2021)
- Offices and new staff had to be equipped with phones, computers, etc.

COVID-19 led to VEC office closures and risks to staff health

- Most field offices closed to in-person assistance through July 2021 for employee health and safety
- Significant detrimental impacts on staff physical and mental health
 - Many staff COVID-19 infections; temporary closure of call center
 - Customer threats to employees' safety

Finding

VEC could have been better equipped to effectively manage extremely large increase in unemployment.

VEC had too few staff for key functions prior to COVID-19 pandemic

- VEC staffing levels low
 - 55 adjudication staff
 - 85 staff answering call center calls
- Number of IT programmers also insufficient, according to VEC, with several approaching retirement

VEC reliant on antiquated IT system and paper-based, manual UI claims process

- UI IT system developed in 1985
 - Reliant on nearly obsolete programming language
 - Requires time-consuming & complex reprogramming to adapt to requirements of new federal benefits programs
- Manual processes and paper documents
 - VEC staff manually enter data from applications into system
 - Documentation from employers and claimants accompanying UI claims submitted by mail or fax

UI complicated for claimants and VEC staff even prior to new federal UI programs

- For claimants...
 - UI eligibility requirements difficult to understand
 - UI application and forms lengthy and complex
- For VEC...
 - Complex and technical policies and procedures for processing and adjudicating claims

Finding

VEC has not clearly communicated information to claimants or employers about UI program eligibility requirements or how to file a claim.

VEC's documents are overly complex, and VEC does not sufficiently explain claims process

- Many VEC forms, notices, instructions, and guidelines for claimants are overly complex and confusing
 - *Example – Letter sent to claimants describing UI process is 8 pages long and has language above college-reading level*
- Lack of readily available materials to help claimants understand key steps in application process
 - *Example – Materials needed to explain federal program eligibility and identity verification process*
- Improvements would increase receipt of benefits, improve timeliness, and avoid errors that create claims backlogs

Recommendations

VEC should revise UI forms, notices, and other explanatory documents to more clearly describe the UI program, eligibility criteria, and the application process to ensure that they are understandable to the public.

VEC should develop new tools, such as instructional videos and UI eligibility “wizard” to help claimants better understand their potential UI eligibility, application process and steps, and strategies to avoid application errors.

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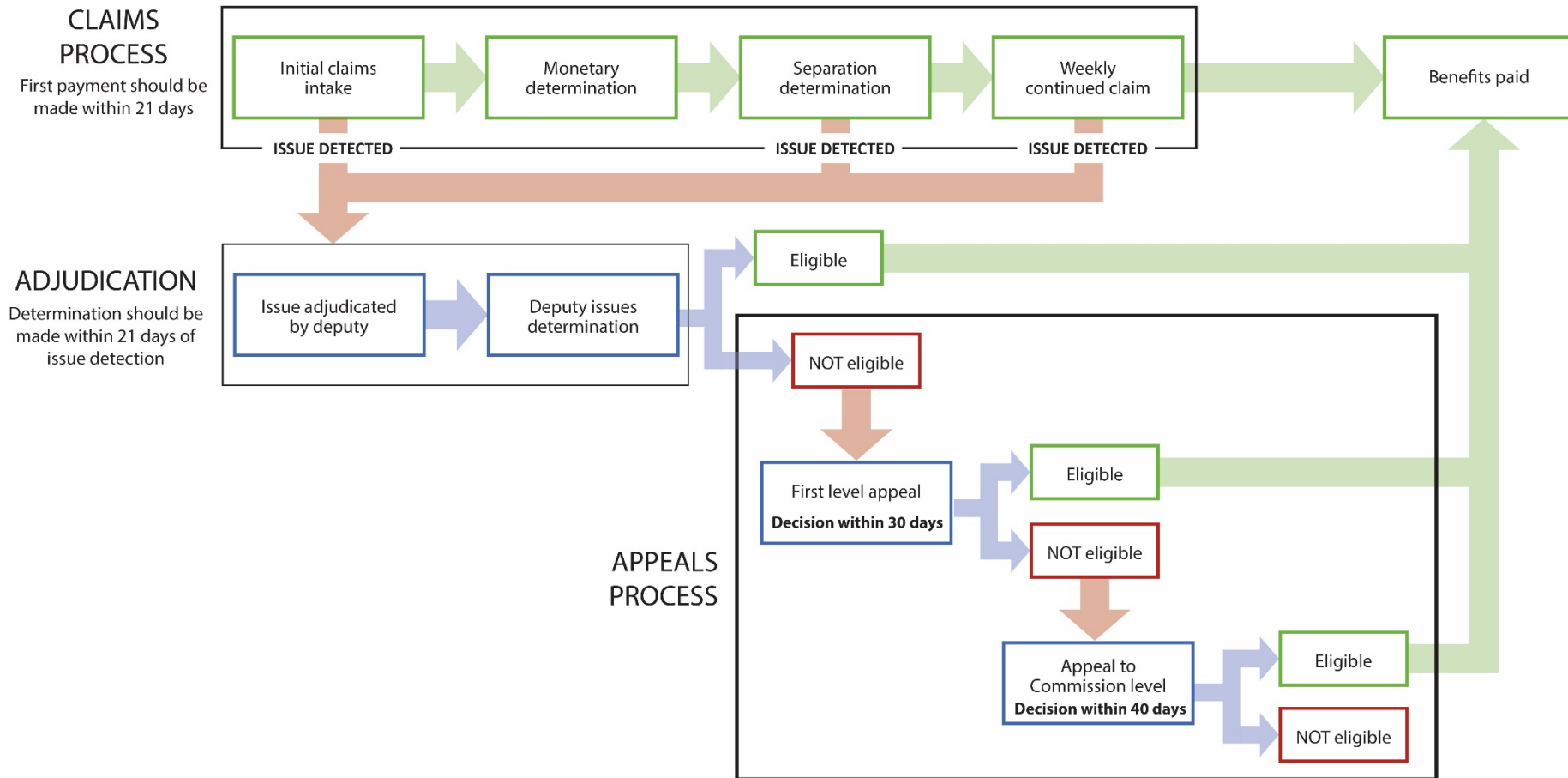
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JLARC review focused on 4 aspects of VEC's handling of claims

- First benefit payments - first UI payment issued to a claimant
- Continued weekly benefit payments – all other UI payments made to a claimant
- Adjudicated claims - claims that require closer review by VEC staff to determine eligibility
- Appealed claims determinations - claimants or employers can appeal VEC staff's determination of claimants' eligibility or benefits owed

VEC handles UI claims through a multi-step process



Note: Challenges to monetary determinations are currently addressed through appeals or redeterminations by VEC's monetary unit.

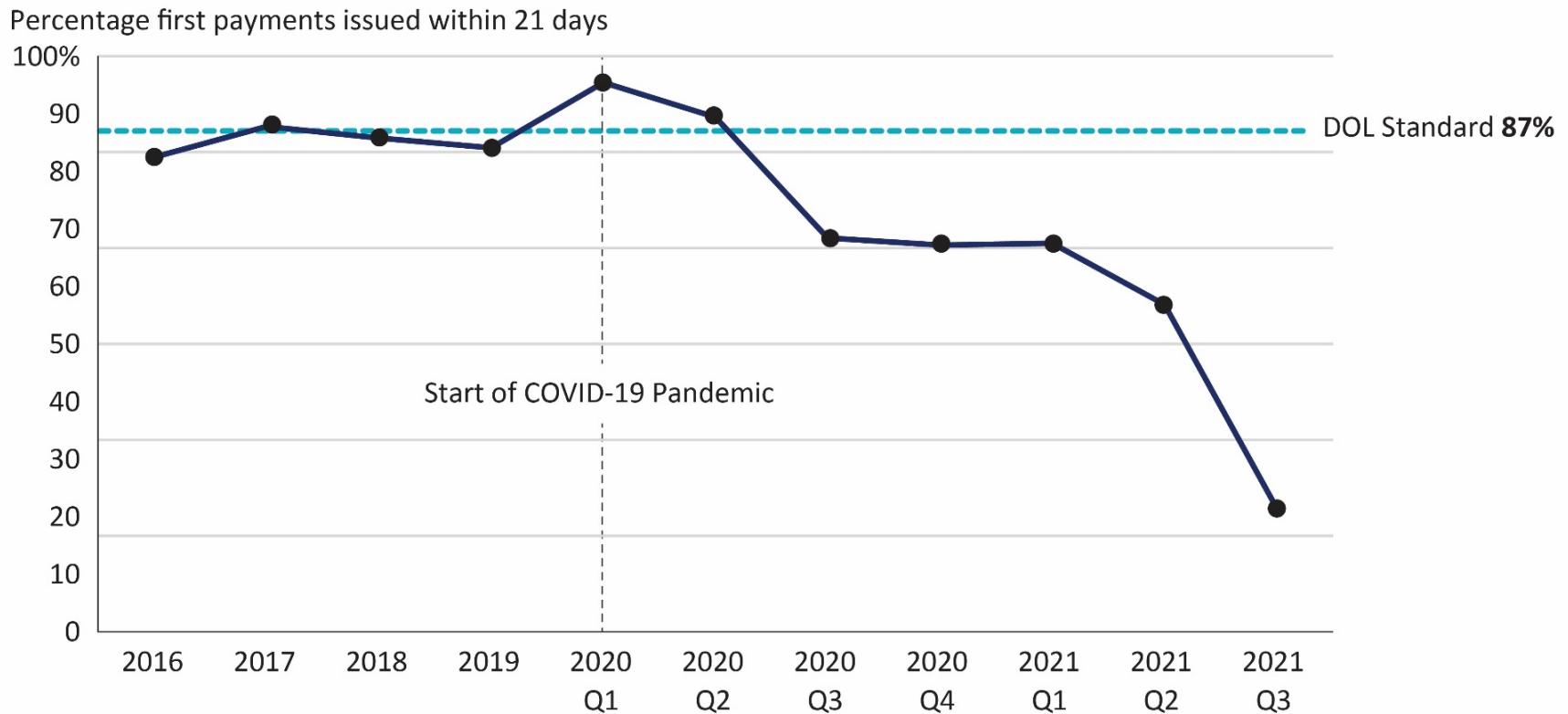
VEC directed by Governor and lawsuit to pay out more UI claims and increase adjudications

- Governor Northam provided direction on UI claims
 - Directed VEC to pay UI claimants whose claims had been delayed (December 2020)
 - Directed VEC to increase number of weekly adjudications (May 2021)
- Class action lawsuit filed against VEC by several legal advocacy groups representing UI claimants (April 2021)
 - Settlement agreement required VEC to increase number of weekly adjudications, adjudicate backlog of 92K claims, and resume payments to claimants whose benefits had been stopped (May 2021)

Finding

VEC generally issued first UI benefit payments in a timely manner in previous years, but first payment timeliness decreased during COVID-19.

Since the pandemic began, VEC is making fewer first payments within DOL's 21-day standard

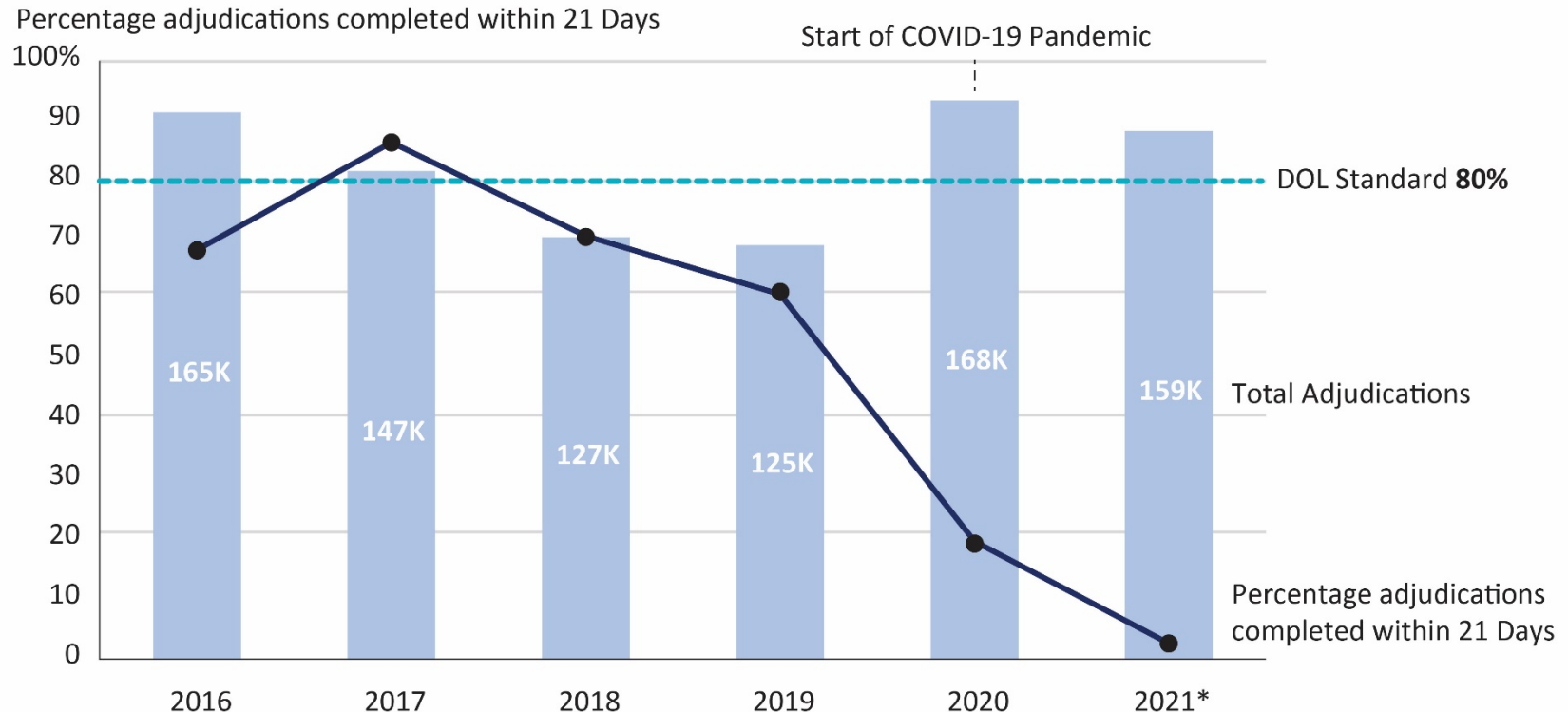


* Q3 is through July 2021. First UI payment timeliness dropped to 26%.

Finding

VEC has not effectively responded to the increased volume of adjudications during COVID-19; backlog of adjudications remains substantial and will likely grow.

Adjudications of claims are not timely in almost all cases



- 2% of adjudications meet 21-day standard (as of June 2021)
- 82% adjudications took longer than 70 days (as of June 2021)

*2021 data is for January - June 2021.

VEC has completed adjudicating 92K claims required by May 2021 settlement

- Adjudications completed per week increased from ~6K in May 2021 to ~20K in July 2021
- VEC announced in August 2021 it had adjudicated most claims required by the lawsuit
 - Requested dismissal of lawsuit
- August court order directs VEC and legal advocacy groups to resolve remaining issues and provide status report with benchmarks

VEC still has substantial backlog of UI claims requiring adjudication that will further increase delays

- Over 100K* claims not included in the May 2021 lawsuit still require adjudication
- VEC staff estimate that an **additional** ~1M claims “issues” could require adjudication
 - VEC bypassed 2M claims issues during COVID-19 to expedite first payments
 - U.S. DOL requiring VEC to revisit previously bypassed claims issues; VEC estimates half will require adjudication
 - Some claimants will have to repay benefits if found ineligible

*As of August 2021.

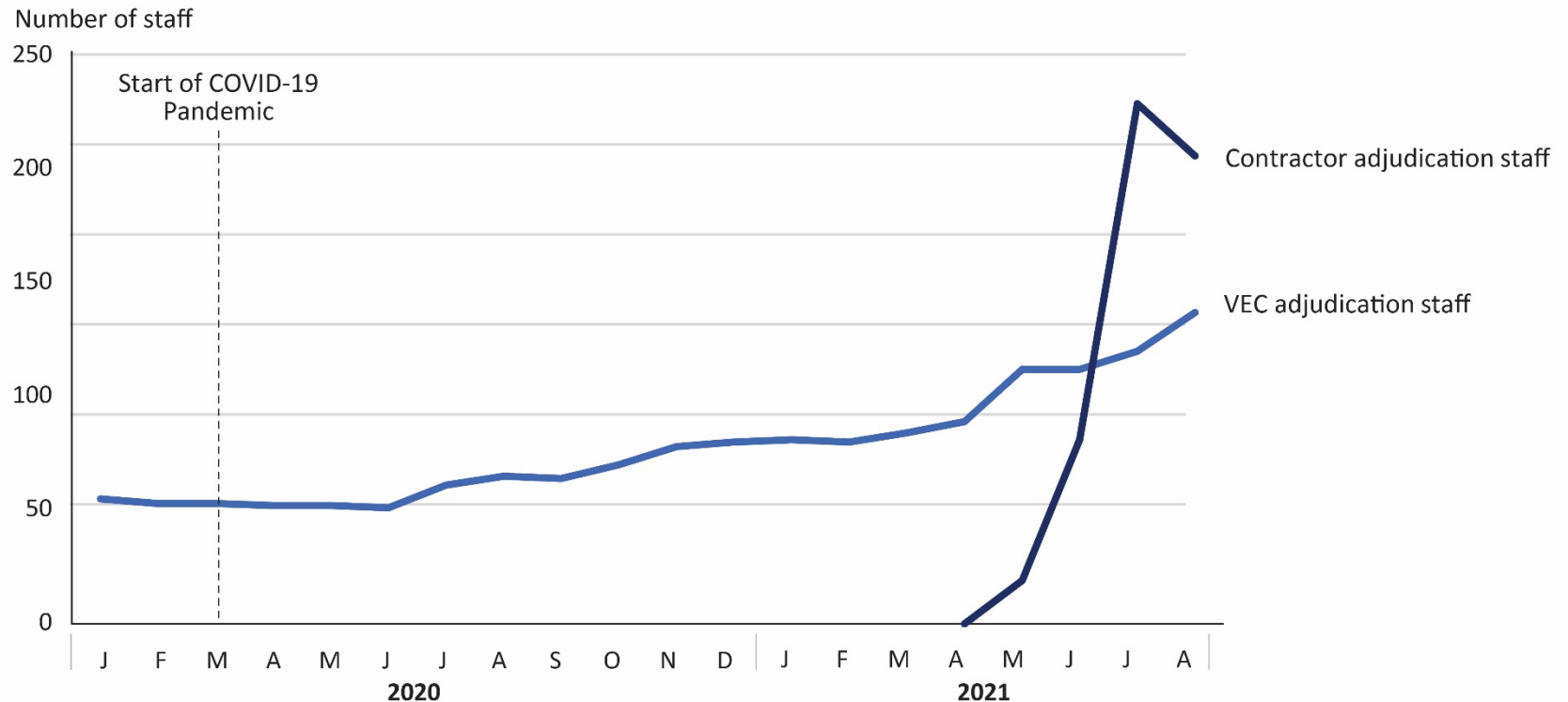
Note: There can be multiple “issues” per UI claim.

VEC has not been able to hire enough adjudication staff

- 46% of full-time adjudication positions vacant*
 - Positions open median of 136 days
- High turnover among VEC adjudicators
 - 44% (70) VEC adjudicators left (Jan 2020–July 2021)
- VEC has streamlined internal recruiting process and hired contractors
 - Turnover also high among contractors, according to VEC

*As of July 15, 2021.

VEC has been slow to hire adjudication staff



- Majority of 202 full-time VEC adjudication positions created during COVID-19 were created in 2021

Recommendation

VEC should develop a detailed plan that includes specific actions and a timeline to resolve (i) adjudications outstanding as of September 20, 2021 and (ii) all issues on claims that VEC bypassed in 2020 and 2021.

The plan should quantify the numbers and qualifications of new staff needed to resolve these claims as well as the actions planned for hiring needed staff.

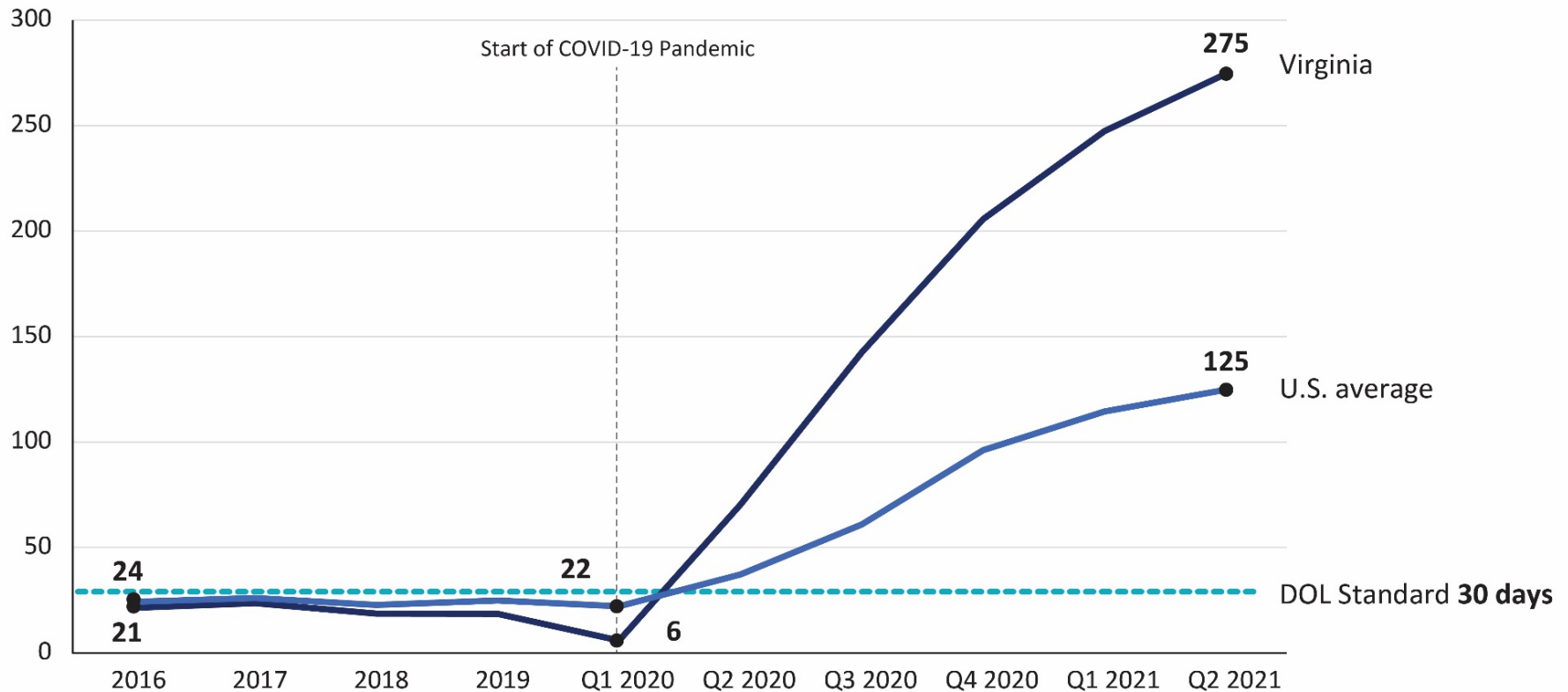
VEC should submit the plan to the House and Senate committees on Labor and Commerce/Commerce and Labor, the Unemployment Compensation Commission, and the Governor by November 1, 2021 and provide a status update quarterly in 2022. VEC should also publish the plan and updates on its website.

Finding

VEC's first-level appeals are taking longer to complete, partially due to inefficient case workflow.

VEC's first-level appeals were timely prior to COVID-19 but now take longer than twice the U.S. average

Average age of appeals (days)



Note: Average age of appeals reflects time between appeal filed and appeal decision.

Some claimants' disputes are unnecessarily appealed, increasing appeal section's workload

- Claimants who disagree with their benefit amounts can formally appeal VEC's determination, but such disagreements do not meet criteria for an appeal
- VEC policy requires appeals section to review these cases before they can be remanded back to VEC's monetary unit
- VEC could clarify that claimants should request a redetermination of their potential benefit amount, rather than submit a formal appeal
 - Estimated to reduce appeals section workload by 30–40%
 - Approach taken by MD, NC, UT

Recommendations

VEC should identify the number of claims that have been appealed due to claimants' disagreement with the monetary determination benefits amount and remand these to the monetary determinations unit.

VEC should clarify in monetary determination notices that claimants who disagree with their monetary determination should request a redetermination rather than submit a formal appeal.

VEC should modify internal appeals policies to allow requests for monetary redeterminations to go directly to the monetary determinations unit for review, rather than to the appeals division.

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To expedite payments to claimants, VEC approved UI claims before reviewing key documents for determining claimant eligibility (called “employer separation reports”). This reduced claimants’ wait time but also resulted in overpayments.

VEC typically reviews employer separation reports to verify claimants' UI eligibility

- Employer separation reports are key to determining UI eligibility; describes why claimants left their job
- Employer separation report submission and reviews are time consuming
 - VEC relies on employers to submit reports through U.S. mail
 - VEC staff manually review reports after they are received
- VEC is required by U.S. DOL to issue first payments within 21 days, even if separation reports have not been reviewed

VEC has not reviewed significant number of employer separation reports; claims will likely be impacted

- VEC has not reviewed separation reports submitted for ~579K claims*
 - Oldest report awaiting VEC review is from August 2020
 - First benefit payments already issued in many cases
- Any issues identified in separation reports will result in payments being paused
 - Some claimants will be ineligible, will owe VEC
- Contractors began assisting with reviews June 2021

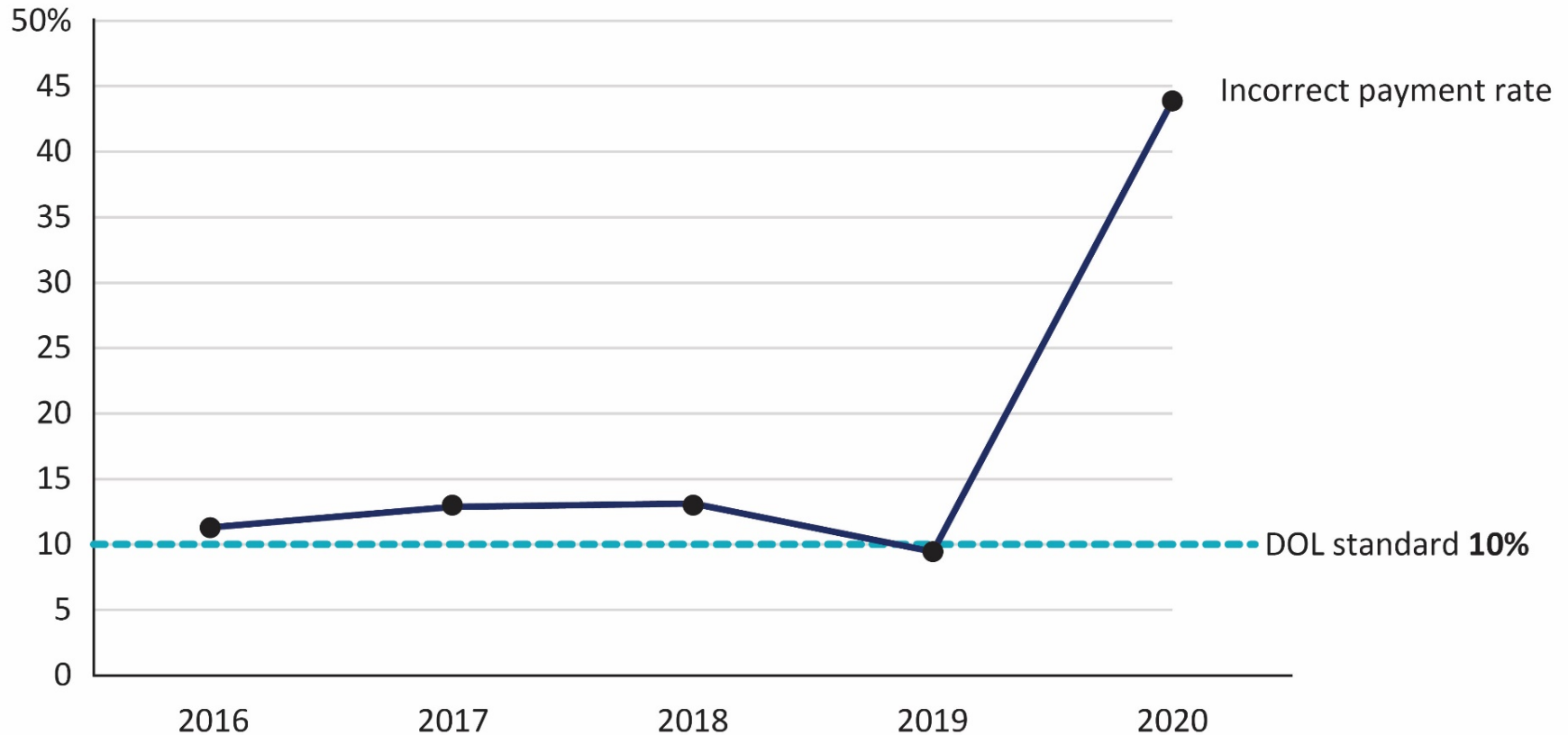
*As of August 2021

Finding

The rate and dollar amount of incorrect* benefit payments—including to fraudulent actors—increased substantially during COVID-19.

* VEC and U.S. DOL refer to these as “improper payments.” Improper payments can result from mistakes made by claimants, employers, or VEC. Improper payments can also result from fraudulent claims, but the majority do not.

2020 incorrect payment rate substantially higher than federal 10% standard



VEC is estimated to have issued \$930 million in incorrect payments in 2020 (state UI only)

- Incorrect payments can result from VEC staff or customer mistakes, or fraudulent claims
 - Nearly 100% of incorrect payments were overpayments
- Fraudulent claims are a portion of incorrect payments
 - VEC's estimated fraud rate for the *state UI program* increased from 1.4% of payments in 2019 to 7.5% in 2020
 - VEC estimated to have paid \$70M in fraudulent state UI claims in 2020
- VEC reviewing backlog of ~136K potentially fraudulent claims

VEC conducted required fraud checks pre-COVID but did not implement some key checks until fall 2020 or later

Fraud check	Type	Implementation
New Hire cross-match	Required	Pre-COVID
Quarterly Wage Record cross-match	Required	Pre-COVID
Social Security cross-match	Recommended	Pre-COVID
Incarceration cross-match	Recommended	Partial Pre-COVID; rest Nov '20 or later*
Data mining and analytics	Recommended	Partial July 2020; rest Aug '21**
Integrity Data Hub	Recommended***	January '21
Identity Verification	Recommended	May '21

*Pre-COVID completed state incarceration cross match; PUA claim checks began November 2020; local incarceration cross match began January 2021.

**Basic data analytics began July 2020. More sophisticated tool implemented August 2021.

***Integrity Data Hub is strongly recommended; DOL notified states they are expected to engage with the Integrity Data Hub to comply with federal law.

Overpayments due to errors or fraudulent claims will be difficult to collect

- VEC is required to try to recover UI overpayments
 - VEC staff send overpayment bills and use offset programs to recoup benefits
 - Collections above \$3K typically referred to OAG
- Payments from fraudulent claims are difficult to collect; stopping payments through early detection essential
 - Local commonwealth's attorneys decide whether to prosecute
- Some claimants have difficulty repaying overpayments
 - New overpayment waiver process* forgives overpayments for individuals not at fault who apply and demonstrate need

*Overpayment waiver process created by HB 2040 (2021). Applicable March 15, 2020 – July 1, 2022.

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VEC call centers have been answering only a small portion of calls, largely because of insufficient IT systems and too few call center staff.

Most customers' calls to VEC are not answered, or customers experience long wait times

- Portion of calls answered is small
 - June 2020 – answered 6% of ~3M calls received
 - June 2021 – answered 4% of ~2M calls received
- Many calls blocked (hear message and then disconnected)
 - Calls blocked = 1.5M (June 2020); 490K (June 2021)
- Blocking fewer calls has increased average customer wait times
 - June 2020 – ~3 hour average wait
 - June 2021 – ~10 hour average wait*

*Average wait time includes callbacks where customers are not waiting on the line.

Call center staff assistance to claimants is limited by insufficient IT systems

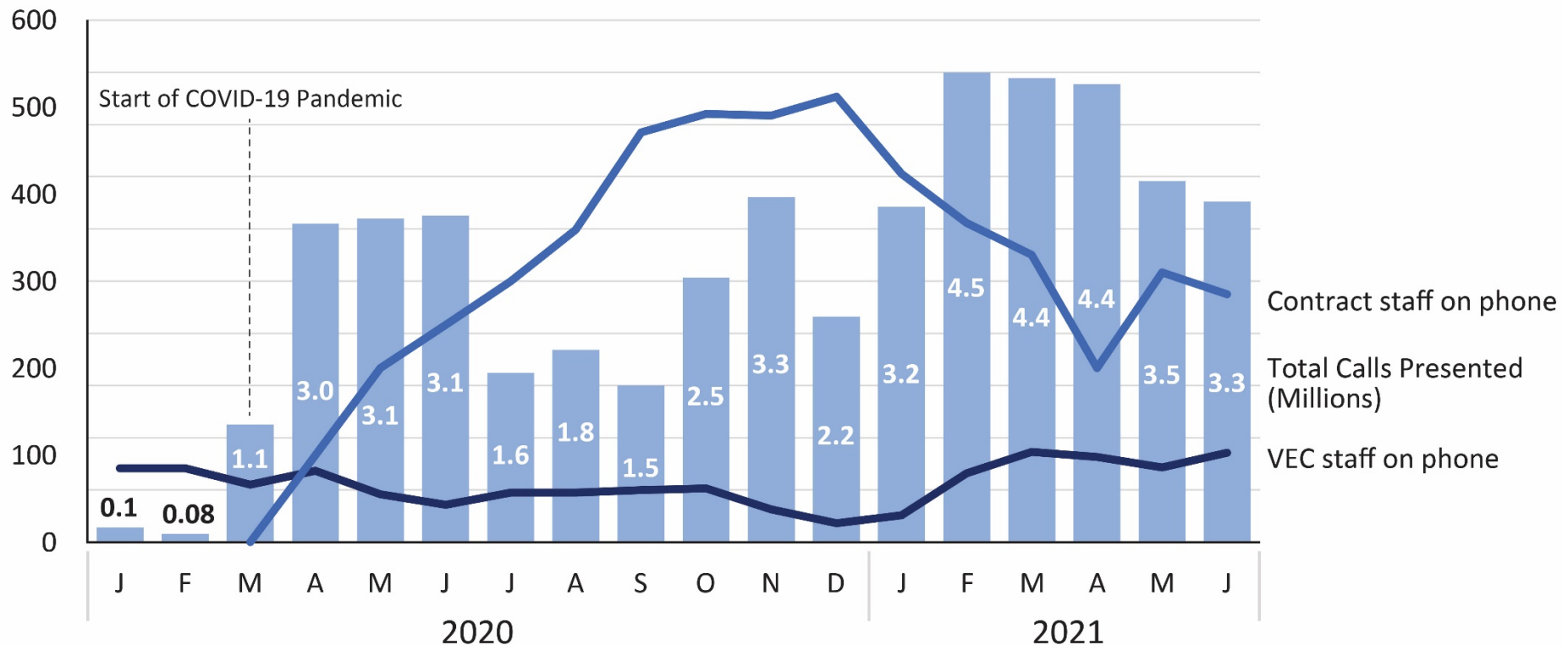
- VEC has lacked quality monitoring and workforce management IT systems
 - Considered essential to monitoring call center performance and strategically using staff resources
- Call center staff cannot always answer caller questions
 - System not intuitive, difficult to learn for call center staff
 - Call center staff process PIN requests, but claimants must wait to receive PIN in the mail
 - Call center staff cannot resolve issues on claims or estimate timeframe for resolution
 - Third-party contractors processing initial claims cannot see details about existing claims

VEC took early actions to improve call center, but most effective actions taken only recently

- Began hiring contract staff (starting at 100 in April 2020), but mostly dedicated to calls about federal, not state, UI programs
- Expanded physical call center space in March 2021
- Hired Deloitte to staff and help manage call center (August 2021)
 - 300 additional call center staff; ability to scale up to 500
- Deloitte's progress has been hindered by procurement of quality monitoring and workforce management software
 - Software solution to be provided through Verizon/VITA; requested by VEC in April 2021
 - Projected to be in place by October 1

VEC conducted limited hiring of agency staff for calls on existing state UI claims

Staff on phones



Note: Contract staff are responsible for calls related to federal UI programs. Also began helping individuals file initial state UI claims during COVID-19, but do not answer calls related to existing state UI claims.

VEC actions will contribute to call volume reductions and improved call center operations

- Modernized UI IT system will allow claimants to check status of their claims online and upload some information needed for adjudications
- Implementing JLARC recommendations to better explain UI claims process on the VEC website (videos, wizards) and through written notices to claimants (slide 17)
- Implementing call center quality assurance and workforce management systems purchased by VEC
- Hiring Deloitte to assist with management of VEC call center

Recommendation

VEC should provide a written quarterly update on the performance of its call centers to the House and Senate committees on Labor and Commerce/Commerce and Labor, the Unemployment Compensation Commission, and the Governor by December 31, 2021 and at the end of each quarter in 2022. VEC should also publish these updates on its website.

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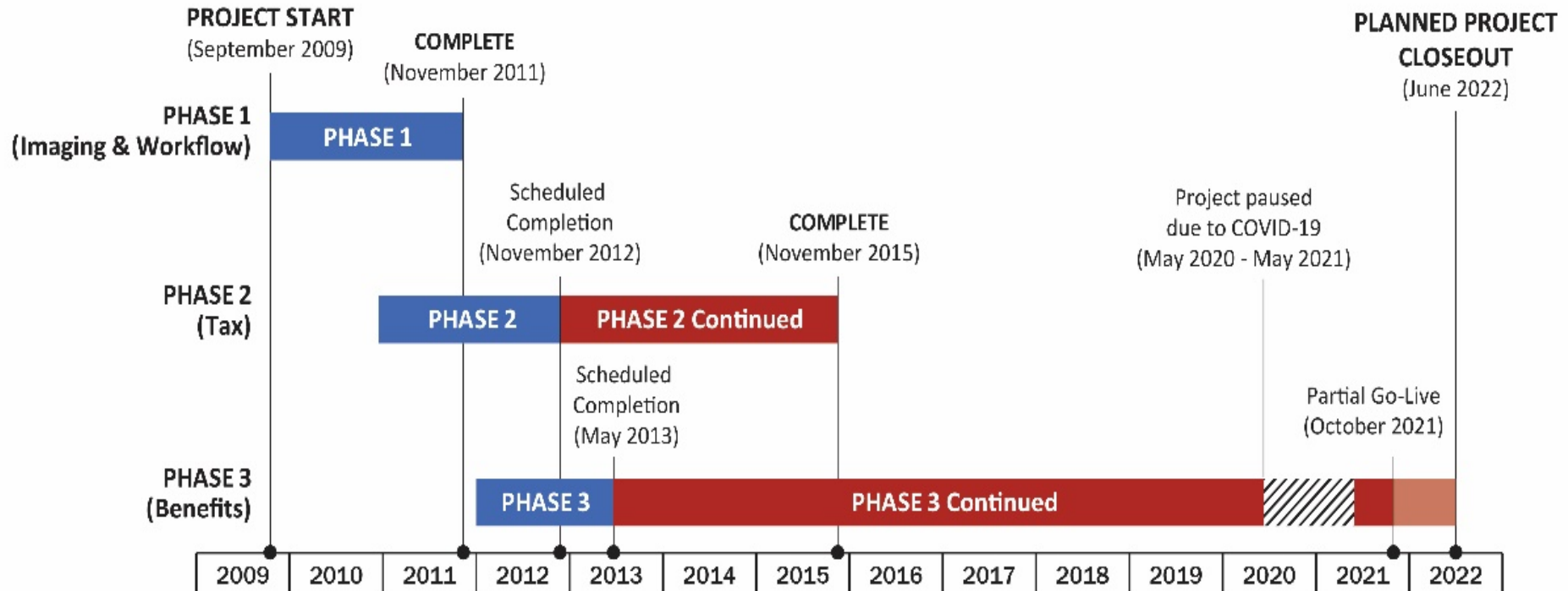
Finding

VEC's modernization of its UI claims system—begun 12 years ago—remains incomplete 8 years after its original expected completion date.

VEC's UI modernization project has taken much too long to complete

- UI IT modernization projects should be completed in 3 to 5 years, according to experts
 - UT, MN, PA, WA, and AK completed similar projects ≤ 5 years
- VEC plans to complete UI system in June 2022; 9 years after original completion date (May 2013)
- Delays due to insufficient staff and project management, COVID-19 workload, technical challenges (e.g., data conversion), and decision to pause project

UI modernization will have partial go-live in Oct 2021, and be complete in June 2022



Antiquated UI IT system has contributed to VEC's poor COVID-19 response

- Poor customer experience
 - VEC staff reliant on inefficient and slow manual processes
 - Lack of visibility into claims status by claimants & VEC staff
 - Increased risks of errors and fraud
 - Claims process has been largely paper based
- Unprepared agency staff, staff turnover
 - Difficult to train new staff on antiquated system
 - Frustrations with system contributes to staff turnover
- Staff in key positions (e.g., adjudication & quality assurance staff) needed to share input and help test new system

Finding

Modernized UI benefits system is expected to improve claims process, but unmitigated risks could limit success of October 1 launch and future system functionality.

New UI benefits system expected to function better and have many important features ready Oct 2021

Recommended modernized system functions	In new VEC system	Ready by Oct 1st
Guided workflow/process for completing applications	Fully	Yes
Adjustable user capacity during periods of high volume	Fully	Yes
Optimized for multiple devices (computer, laptop, tablet, phone)	Fully	Yes
Interface with back-end systems (e.g., appeals, workforce)	Fully	Yes
Customer portal with claim status information	Fully	Yes
Electronic document upload/repository	Fully	Yes
Role-based access permissions for VEC staff and other agencies	Fully	Yes
Electronically reset/recover passwords or PINs	Partially*	Yes
Automatic cross-match of UI claims with national fraud databases	Fully	Partially
Customer relationship management system	Partially	Yes
Live-chat with staff (business hours) or automated chat-bot (24/7)	Partially	Partially
Automatic text/email notifications about claim status & required documents	Missing	--

*Claimants will not be able to fully electronically recover PINs, but PINs will no longer be necessary to apply for a claim online or access claim information through customer portal.

Major project risks have not been fully mitigated and continue to threaten project

- Incomplete and/or inaccurate conversion of UI data
- Long black-out period for launch of new system
 - Down time planned = 5 to 7 days
 - Public will be unable to file new or continuing claims; VEC staff will be unable to process claims
- No redundancy in case of system failure
- Attrition of VEC or contractor staff
- Incomplete VEC staff training on new system
 - Training started 9/13/21

Project is receiving additional oversight to monitor status and risks

- VEC leadership, HCL*, and VITA meeting at least weekly to discuss project status and risks
- VITA increased staff involvement with project management
 - VITA project manager helping identify and monitor risks
 - VITA staff member coordinating VEC staff training on new system

*HCL, America is VEC's contractor for the UI modernization project.

Finding

VEC has tested the new UI benefits system with agency staff but has not yet conducted usability testing with customers.

Usability testing with customers is key to long-term success of new UI benefits system

- Experts recommend that states conduct extensive usability testing of modernized UI systems with agency staff and customers
- VEC has tested new UI IT benefits system with variety of agency staff, but not employers or potential claimants
- Customer usability testing would help identify areas of confusion and possible improvements before modernization project ends

Recommendation

VEC should regularly collect feedback on the usability of the new UI benefits system from claimants and employers and make regular necessary improvements to the system.

VEC should provide user feedback and planned and completed steps to improve the system to the House and Senate committees on Labor and Commerce/Commerce and Labor, the Unemployment Compensation Commission, and the Governor by December 31, 2021 and at the end of each quarter in 2022.

VEC should also publish this information on its website.

Finding

Significant problems with employer tax portion of the modernized UI IT system have not been resolved; could portend challenges with benefits portion.

Multiple problems remain in modernized UI tax system developed by HCL

- 55+ problems remain in UI tax system completed in 2015
- Cause process inefficiencies and negatively impact tax collections
 - *Example - System is supposed to automatically assign delinquency tax rate to delinquent employers as a penalty but does not do so accurately. VEC staff have to manually review each employer assigned a delinquency rate to determine validity.*

Recommendation

VEC should work with HCL to develop a plan that includes specific actions and a timeline for addressing all existing tax system problems that detail (1) how each problem will be fixed, (2) deadlines for fixing each problem, and (3) any additional resources needed to fix the problems.

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VEC's communications to customers and internal communications to staff have been infrequent and incomplete during COVID-19, causing significant frustration, confusion, and mistakes.

VEC did not communicate clearly with customers and stakeholders during COVID-19

- VEC did not proactively notify customers and stakeholders of key program and process changes
 - *Example – UI claim denial letters did not clearly describe need to be denied for state UI benefits before applying for PUA**
 - *Example – VEC website did not contain adequately detailed information describing identity verification process*
- Caused customer confusion and frustration, increased calls to VEC and legislators, and prevented eligible individuals from accessing UI benefits

*PUA = Pandemic Unemployment Assistance

VEC internal communications did not prepare staff to implement new programs and process changes

- VEC leadership holds regular meetings but still does not effectively convey essential information to all key staff
 - VEC staff in key positions observed that changes to programs, policies, and procedures were not always clearly communicated
- Lack of internal communication made it difficult for staff to respond to questions from public

Recommendation

VEC Commissioner should ensure that all key developments that could affect the public, VEC, or VEC staff are communicated clearly and expeditiously to all VEC staff, especially those in leadership or positions communicating with the public.

Finding

VEC's performance underscores need for additional oversight and accountability.

VEC primarily overseen by DOL and executive branch

- U.S. DOL regularly collects data on VEC program performance but rarely issues financial penalties
 - Requires VEC to complete corrective action plans but never issued financial penalties despite authority to do so
 - Does not collect information on aspects of operations that have contributed to poor COVID-19 performance, such as plans for increasing or repurposing staff in response to economic emergencies
- Secretary of Labor, and previously Secretary of Commerce and Trade, charged with overseeing VEC

Other states have boards/committees with responsibility for monitoring UI operations

- MD - Joint legislative committee with representatives from legislative branch, executive branch, business/worker groups, and an academic expert
- TN - Advisory committee with business/worker representatives
- IL – Advisory board with representatives from labor organizations, citizens, and employers
- JLARC staff considering recommendations/policy options for November

*Four other states with external UI oversight entities include: NC, SC, OH, and OR.

Project will conclude with final report in November and VEC status updates in November/December

- Final JLARC report (November)
 - Agency staffing, funding, planning, oversight (longer-term)
 - UI process improvements (longer-term)
 - Update on launch of modernized UI IT benefits system
 - UI trust fund solvency
 - Employer tax rates & process
 - UI benefit levels
- Status report by VEC staff (November and December)
 - Actions taken to implement recommendations to date
 - Contingent on status of lawsuit

JLARC staff for this report

Tracey Smith, Associate Director

Lauren Axselle, Project Leader

Sarah Berday-Sacks, Senior Analyst

Nick Galvin, Senior Associate Analyst

Landon Webber, Senior Associate Analyst

Dillon Wild, Associate Analyst



COMMONWEALTH of VIRGINIA

Virginia Employment Commission

Ellen Marie Hess
Commissioner

6606 West Broad Street
Richmond, VA 23230

Post Office Box 26441
Richmond, VA 23261-6441

September 16, 2021

Hal Greer, Executive Director
Joint Legislative Audit and Review
Commission 201 North Ninth Street
General Assembly Building, Suite 1100
Richmond, VA 23219

Dear Executive Director Greer:

Thank you for providing a draft copy of the "Interim Report: Review of the Virginia Employment Commission." We are especially grateful for the opportunity to provide input into the process at this point. Furthermore, I appreciate your recognition of the extremely dedicated public servants of the Virginia Employment Commission (VEC) and the enormous volume of work that they produced in response to the Covid-19 pandemic. The impact of the pandemic is unprecedented in the history of the Commonwealth and the staff of the VEC has worked tirelessly in challenging circumstances for more than a year to respond.

As you know, in the weeks prior to the outbreak of Covid-19 in the United States, Virginia's unemployment rate and claims for unemployment benefits were at all-time historically low levels. As a consequence of the workload based funding formula for unemployment insurance programs, VEC was also at a low point for funding and staffing. The economic impact of the pandemic was felt at a scale and speed never seen before, providing the agency no time to prepare.

In response to the outbreak of Covid-19 in the United States, Congress enacted six new federal unemployment insurance benefit programs. Within weeks, VEC completed the programming to implement the new benefits. At the same time the agency worked to acquire laptops and other technology needed to move staff to telework in order to protect staff and the agency's processes. Additionally, the agency undertook a herculean effort to increase staffing

Hal Greer, Executive Director
September 16, 2021
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with mandatory overtime, leased more than a hundred thousand additional square feet of office space, and entered into numerous support and technology contracts. Despite these demands, VEC paid more than \$14 billion on 1.9 million initial claims and more than 25 million weekly claims.

While the agency has done much to respond to the pandemic and its impact on Virginia there is still much work to be done. JLARC staff has acknowledged in our most recent meeting that the scale of the remaining workload is enormous and will require much more to be successful. VEC is working with stakeholders at the state and national level to explore opportunities to address these issues from the pandemic, but just as importantly, to strengthen the system for the future. We look forward to JLARC's recommendations in this regard as well and look forward to further discussions as you and your team complete your final report.

Sincerely,

A handwritten signature in cursive script that reads "Ellen Marie Hess".

Ellen Marie Hess



COMMONWEALTH of VIRGINIA

Office of the Governor

Megan Healy, Ph.D.
Secretary of Labor

September 15, 2021

Joint Legislative Audit & Review Commission
201 North 9th Street
General Assembly Building, Suite 1100
Richmond, VA 23219

Dear Director Greer:

Thank you for your comprehensive review of the Virginia Employment Commission's (VEC) response to the COVID-19 pandemic. I was appointed in July of this year to serve as the Virginia Secretary of Labor to Governor Ralph Northam after previously acting as the Chief Workforce Development Advisor. With my newfound oversight of the VEC, I sincerely appreciate your efforts to analyze the agency's past performance as we strive for a more successful future. From gaps in funding and staffing to the outdated nature of the agency's IT systems, the JLARC team has successfully highlighted many of the challenges that were laid bare in the face of truly unprecedented demand.

Since the onset of the coronavirus pandemic in the Commonwealth, hundreds of thousands of Virginians have turned to the VEC's Unemployment Insurance (UI) program for the resources they need to get through these hard times. The agency has paid out more than \$14 billion in benefits and received over 1.9 million claims due to the pandemic. This equates to thousands of meals on family tables, rent being paid, and lights staying on. It also marks ten times the number of claims received in the previous year, and is a testament to the incredible value of this system to Virginia citizens and the economy.

Like every employment agency in the nation, the VEC has struggled to meet this overnight demand while implementing completely novel and often amorphous federal unemployment programs. However, when provided with adequate support and funding, we have seen the agency's dedicated staff rise to the occasion.

For example, while the agency was ranked 6th in the nation for the timely payment of benefits to eligible applicants across all new programs, they lagged behind in the adjudication of claims flagged for issues earlier this year. The Governor issued Executive Directive No. 16 in

May 2021, backed by a \$20 million investment, that directed the VEC to speed up its handling of adjudications. Since then, the VEC has hired 300 adjudication officers and has been able to process a record 20,000 adjudications per week.

Historic claim volume during the pandemic had also previously delayed VEC's progress in modernizing its 41-year-old benefits system. The agency resumed the project as soon as possible, executing a contract for \$5 million in state funding for technology upgrades. In the midst of an ongoing pandemic, the commission is aiming for October 1, 2021 as the target date for completing the final phase of the system.

It is important to note that at the root of these and other challenges are decades of disinvestment in the agency's operations—which left the system in a poor position to respond to the impacts of a global pandemic. Virginia's UI program is one of the most poorly funded in the country. The Commonwealth ranks 51 out of 53 states and territories for the amount of federal support it receives compared to what Virginia businesses pay in federal unemployment insurance tax.

The VEC's budget is also determined by demand, and Virginia enjoyed record low unemployment before the COVID-19 pandemic. Thus, funding for the UI program at the start of the crisis was more than 40 percent lower than it was in 2011. Eighty-two employees staffed VEC's call centers, and the commission's UI division staff averaged less than 1,000 hours of overtime per month. In just a few months, the average monthly overtime had increased to more than 13,000 hours, with a lag in funding to support this new administrative burden.

This is critical context to our understanding of how to improve the VEC moving forward. While the VEC is working diligently with their federal counterparts and my new office to address the challenges highlighted in your report, legislative support and other resources will be essential to their success. If we are to see improvements, the agency cannot continue to be underfunded and ill-staffed.

Governor Northam and the General Assembly have taken an important step by committing \$935.6 million in federal American Rescue Plan funding to replenish the Unemployment Insurance Trust Fund and accelerate critical upgrades to the VEC. The Governor's plan, approved by the General Assembly in the August Special Session, put \$862 million back into Virginia's unemployment insurance trust fund, preventing tax increases on businesses and ensuring that employers are not penalized for layoffs during the COVID-19 pandemic. Virginia is also investing \$73.6 million to fast-track ongoing modernization efforts at the VEC, including \$37.4 million to boost call center capacity, \$29.8 million to upgrade technology, nearly \$4.6 million to hire additional adjudication officers, and \$1.8 million for personnel support.

We still have a long way to go on this path to organizational transformation. I look forward to collaborating on the implementation of your recommendations, the protection of Virginia's workers, and the reform of this long-neglected but incredibly important system.

Sincerely,

A handwritten signature in black ink, appearing to read "Megan Healy". The signature is fluid and cursive, with the first name "Megan" and last name "Healy" clearly distinguishable.

Megan Healy

Secretary of Labor