GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE CHIEF FINANCIAL OFFICER

Jeffrey S. DeWitt
Chief Financial Officer

June 26, 2020

The Honorable Muriel Bowser
Mayor of the District of Columbia
John A. Wilson Building
1350 Pennsylvania Avenue, NW, Room 306
Washington, DC 20004

The Honorable Phil Mendelson
Chairman
Council of the District of Columbia
1350 Pennsylvania Avenue, NW, Suite 504
Washington, DC 20004

Dear Mayor Bowser and Chairman Mendelson:

Pursuant to the Universal Paid Leave Implementation Fund Act of 2016, effective (D. C Law 21-160; D.C. Official Code § 32-551.01) ("Act"), I am pleased to certify that the Universal Paid Leave Fund ("Fund") balance is sufficient to proceed with the commencement of benefit payments as provided under the Act. The Office of the Chief Financial Officer (OCFO) comes to this conclusion after careful analysis and collaborative discussions with the Department of Employment Services. The estimated Fund balance is sufficient to maintain a reserve balance equal to 75 percent or more of annual benefits projected over each of the next two years. However, given the uncertainties arising from the current pandemic and the related impacts on the economy, we will continue to monitor Fund reserve levels. If these reserves fall below 75 percent of expected benefits, I will notify you for immediate action to ensure that the Fund remains solvent.

The enclosed report updates the revenue and benefits projections of the original Fiscal Impact Statement to reflect final program rules, the current economic downturn, and the potential impact of a range of COVID-19 infections on benefits. This letter summarizes some of the key points in the enclosed analysis.

FUND REVENUE

The Fund has collected $303 million of revenue since July 2019, when collections began. The forecasted revenue for the coming year is impacted by a severe economic downturn that began last March, with a steep rise in District unemployment and a decline in District real gross

domestic product which is not expected to regain its prior peak until the end of 2021. While Fund revenues will be reduced, the impact is less than the unemployment statistics may imply because the employment reduction is mainly in the hotel, restaurant, and other retail sectors with a high concentration of low-wage workers. We estimate the Fund will collect $286.7 million in revenues during July 2020 through June 2021.

FUND BENEFITS

Our original estimate of benefits in 2016 was based on a variety of assumptions regarding who may or may not take leave under the program.[1] We do not have any information that would cause us to revisit the take-up rates utilized in the underlying estimate. However, we have updated the estimate based on more recent demographics, as well as a policy change allowing parental leave to be taken for births that occurred up to a year prior to the start of the program. Incorporating an estimate for COVID-19 related claims brings the total estimated fund benefits to $319.5 million in year one of the program. As seen in the enclosed report, we applied a range of potential additional claims arising from COVID-19 illnesses and determined that the Fund remains solvent even under extremely costly scenarios that we consider unlikely to occur.

FUND BALANCE SUMMARY

Assuming benefits commence July 1, 2020, under what we consider the most likely scenario, the fund balance reserves will total an estimated $296 million. We estimate we will collect $286.7 million in revenues from July 2020 to June 2021 and expend $348.3 million in benefits and administrative costs during the same period. This would leave $234.4 million in the fund reserves at the start of year two (July 2021 to June 2022) of the program, approximately 92 percent of the estimated $255.1 million in year two benefits. Based on this, we deem the Fund to be solvent in the first year of the program.

As stated previously, there are still many uncertainties and risks in the economic environment which we will continue to closely monitor. As the Act requires, I will notify you and the Council should our forecasts indicate the reserves will dip below the threshold of 75 percent of expected annual benefits.

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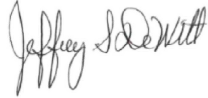
[1] Please see the fiscal impact statement on the Universal Paid Leave Act of 2015, dated December 2, 2016, for much more detail on how we arrived at the original estimate.

If you have any questions or would like to discuss this matter further, I am available at your convenience.

Sincerely,



Jeffrey S. DeWitt

Enclosure: Universal Paid Leave Certification Analysis

cc: The Honorable Councilmember Anita Bonds (At-Large)
The Honorable Councilmember David Grosso (At-Large)
The Honorable Councilmember Elissa Silverman (At-Large)
The Honorable Councilmember Robert White, Jr. (At-Large)
The Honorable Councilmember Brianne Nadeau (Ward 1)
The Honorable Councilmember Mary Cheh (Ward 3)
The Honorable Councilmember Brandon Todd (Ward 4)
The Honorable Councilmember Kenyan McDuffie (Ward 5)
The Honorable Councilmember Charles Allen (Ward 6)
The Honorable Councilmember Vincent Gray (Ward 7)
The Honorable Councilmember Trayon White, Sr. (Ward 8)
Rashad Young, City Administrator
Dr. Unique N. Morris-Hughes, Director, DC Department of Employment Services

Universal Paid Leave Program

Office of the Chief Financial Officer

Certification Analysis

June 2020

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Universal Paid Leave Program – OCFO Certification Analysis

Purpose of analysis

The purpose of this paper is to determine the fund balance needed at the start of the program (expected July 1, 2020) to ensure the UPL fund will remain **solvent**[1] through the second year of the program (July 1, 2021-June 30, 2022).

The UPL law does not have a specific definition of solvency, instead, it leaves the determination of solvency up to the Chief Financial Officer. However, once the benefits commence, the law requires the OCFO to present a plan to Council[2] if the fund reserve drops below 75 percent of expected annual benefits and requires cessation of benefits if fund reserves drop below 50 percent. For the purposes of this report, we will define solvency as ***possessing a reserve fund balance of at least 75 percent of expected benefits at the start of the second year of the program (July 1, 2021 – June 30, 2022)***.

The fund collected $303 million in the first year of tax collections, and after $7 million in administrative cost for the current year are subtracted, the fund balance is $296 million. Our baseline estimate of benefits, prior to COVID impacts, is $313 million for the program's first year and $255 million for the second year (with first year accounting for additional parental claims as explained in the Appendix). In this paper, we model three revenue scenarios and five benefit scenarios over the next 12 months and calculate the corresponding fund balance.

Conclusion

Under what we consider the most likely scenario, the fund balance reserve is sufficient to allow for continued benefit payments in year 2 of the program. The scenario assumes revenues based on economic conditions in ORA's April forecast, combined with a low-COVID claim scenario on the benefit side. While there are many uncertainties, the highest likelihood benefit scenario is for **low COVID-related claims**. We believe this is reasonable because of the limited types of claims that can be made related to COVID, the fact that unemployed workers cannot make a UPL claim, and the many federal options being provided for workers under this emergency.

On the revenue side, we do not assume the most severe revenue scenario because of the structure of the underlying wage base of the UPL payroll tax. The recession is expected to disproportionately affect lower wage workers. Because the UPL payroll tax is applied to all wages, the impact on revenues is blunted by higher paid workers. The chosen scenario shows a 92% fund balance available to start program year 2. This analysis concludes that there is a low risk of fund insolvency based on current information. Here is the Sources/Use chart for this chosen analysis.

UPL FUND SOLVENCY ANALYSIS			
	Sources	Uses	Balance
Expected UPL Fund Balance June 30 2020	$ 296,000,000		
Year 1 (July 2020 - Jun 2021)			
Estimated Revenues	$ 303,000,000		
Baseline Expected Benefits		$ 312,878,213	
Allowed Admin Costs (up to 10% of revenues)		$ 28,663,568	
COVID-19 emergency related revenue reduction	$ (16,364,322)		
Additional claims expected (Driven by COVID illness)		$ 6,716,438	
TOTAL YEAR 1	$ 582,635,678	$ 348,258,218	$ 234,377,460
Year 2 (July 2021 - June 2022)			
UPL Fund Balance June 30 2021	$ 234,377,460		
Fund balance as % of Expected Year 2 Benefits	92%		
Exected Revenues	$ 292,368,392		
Expected Benefits		$ 255,190,708	
Allowed Admin Costs (up to 10% of revenues)		$ 29,236,839	
COVID-19 emergency related revenue reduction	$ -		
TOTAL YEAR 2	$ 526,745,853	$ 284,427,547	$ 242,318,305

[1] D.C. Official Code § 32-551.01(h)(2).

[2] D.C. Official Code § 32-551.01(h)(2)(i).

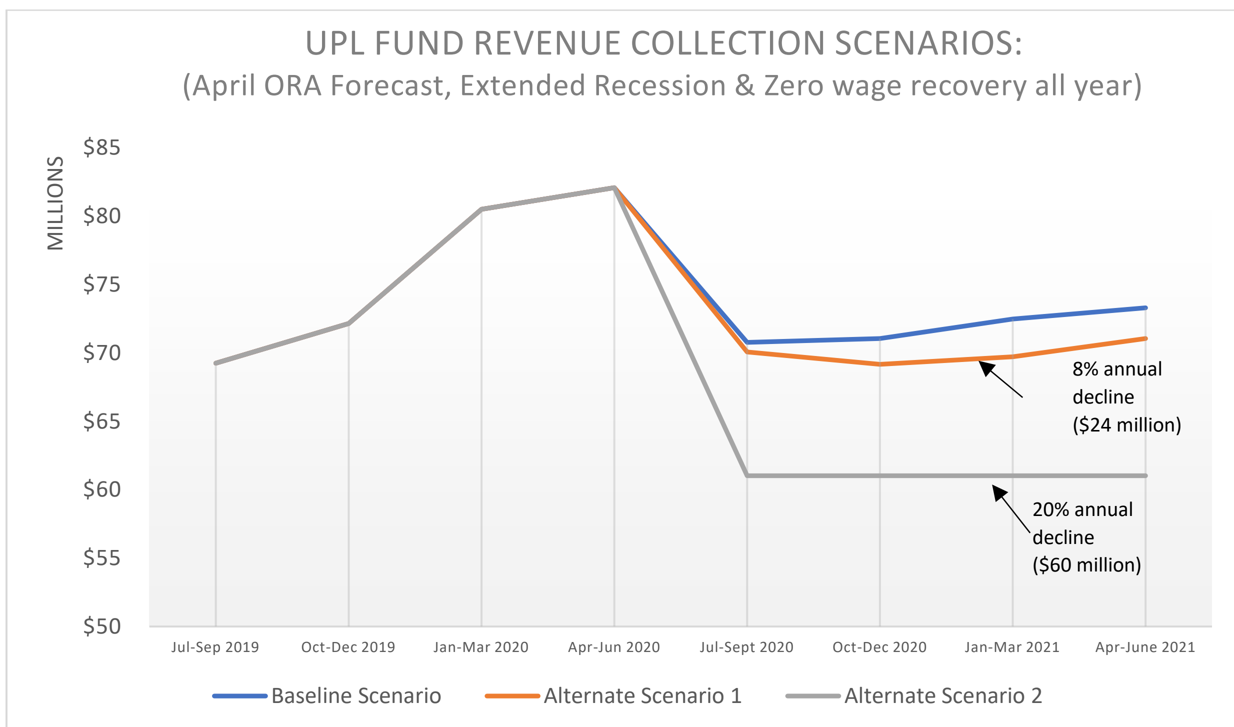
Methodologies

Revenue Scenarios:

1) ***Baseline Scenario*** – **April ORA forecast**. Estimate baseline revenues in fund using recession assumptions used in the OCFO April revenue estimate – total wages decrease for one quarter and then grow slowly for the next four quarters.

2) ***Alternate Scenario 1*** – **Extended Recession**. Estimate loss of revenue in an extended recession scenario – wages decrease in two quarters and then grow slowly for the next four quarters.

3) ***Alternate Scenario 2* – Zero wage recovery.** Estimate loss of revenue if 90% wage loss in affected industries (hospitality, entertainment, restaurants) continues for entire year and 10% wage loss in all industries are also lost for entire year. (We consider this an extreme scenario, as this would mean 20-30 percent unemployment rate. However, it provides an outer bound test.)



Benefits Scenarios:

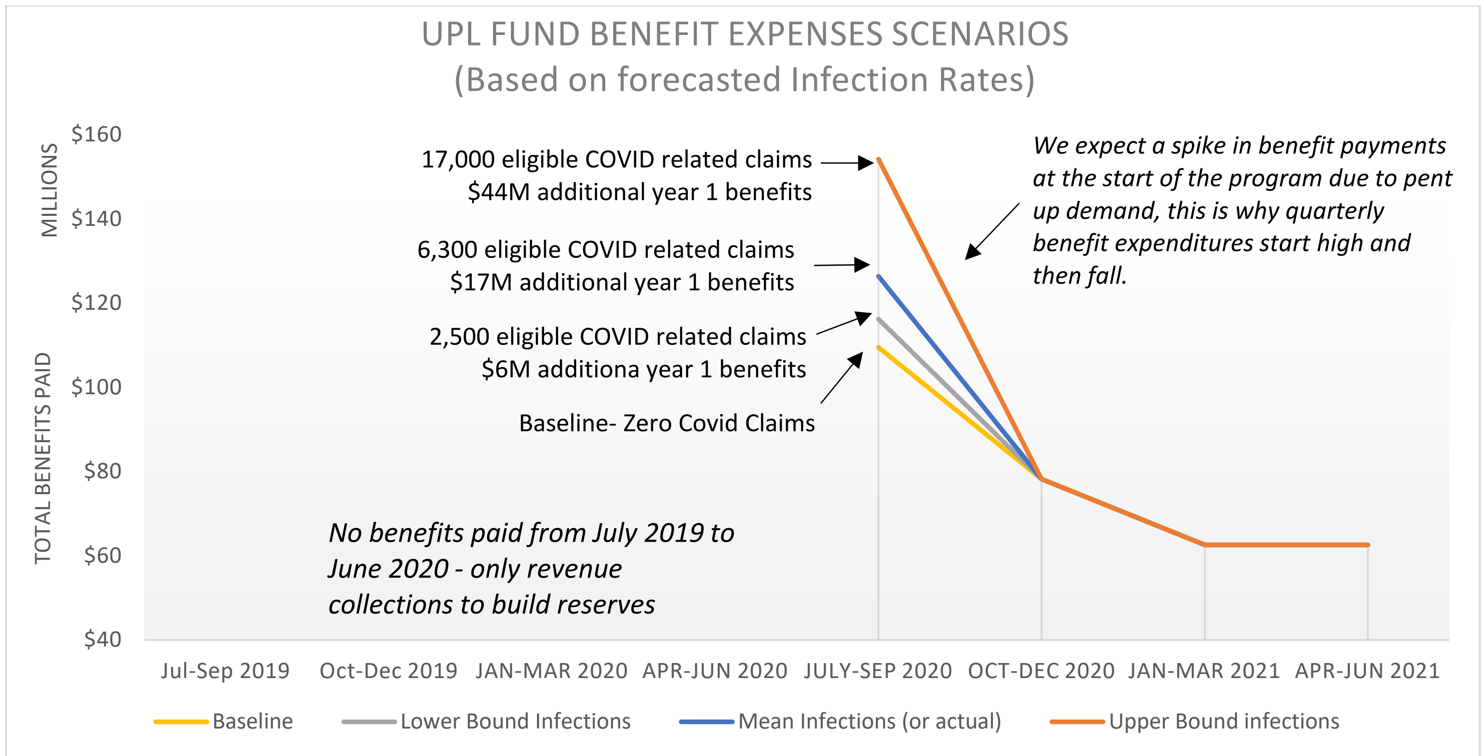
1) ***Baseline Scenario -*** Estimate baseline benefit cost, changing assumptions made in the original 2016 estimate to include demographic changes and parental leave for babies born in the 12 months prior to the start of the program benefits. (See Appendix 2 for more detail on the parental leave estimate adjustment.)

2) ***Average estimated Infections scenario*** - Estimate COVID-19 impact based on forecasted infection rate ranges[3], using mean of the range. Under the law and the approach being taken by DOES, only COVID-19 infections that result in serious illness will be eligible for benefits, NOT just confirmed infection.[4] We assume a claim rate of 10%

[3] https://covid19.healthdata.org/united-states-of-america/district-of-columbia. The infection estimates are state-based and not District workforce based. So we work around this limitation by tripling the estimated infection rates in the District to approximate the infections the workforce will see. (We triple the total because District residents comprise 1/3 of the total District workforce.)
[4] https://does.dc.gov/sites/default/files/dc/sites/does/page_content/attachments/DOES_PFL_FAQs_Coronavirus.pdf.

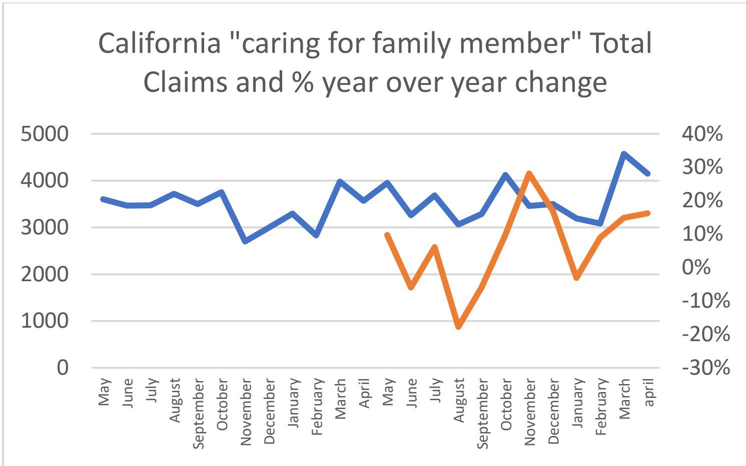
of infections. Current hospitalization rates per population are much lower, less than 1 percent[5], and DOES indicates minor symptoms are not eligible for benefits.

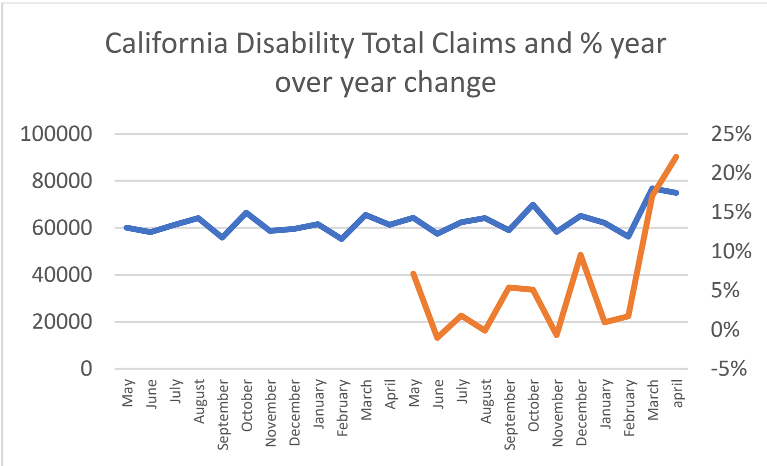
3) ***Upper bound infection rate scenario*** – Estimate COVID-19 impact base on forecasted infection rate ranges, using upper bound of range. Apply an assumed claim rate of 10% of infections as in the average scenario.



4) **Other State Benefit Impacts from COVID-19.** There is insufficient data from other states to draw strong conclusions on pandemic impact, but we researched California, Rhode Island and New Jersey to see if there are any helpful datapoints. With two months of data, California could provide a sense of potential COVID-19 impact on its temporary disability claims so far – but the results are ambiguous. California claims grew approximately 17 percent over the previous year in both March and April. This could suggest an increase in claims related to the pandemic. However, claims grew by a similar year over year rate in November, so there could be other contributing factors. Additionally, while April claims are up 17 percent over the previous year, total claims are down from the March total. This month over month decline occurred despite California COVID-19 cases continuing to increase in April. This could mean that the March increase is not related to COVID-19, or the federal assistance programs stood up in April (such as expanded unemployment insurance) were more attractive to workers than making a claim through the California paid leave program. (Rhode Island March data is not relevant to our program because RI made a policy decision to include those not seriously ill to receive benefits during lockdown.) We were unable to obtain New Jersey Data at the time of this writing.

[5] https://www.cdc.gov/mmwr/volumes/69/wr/mm6915e3.htm.

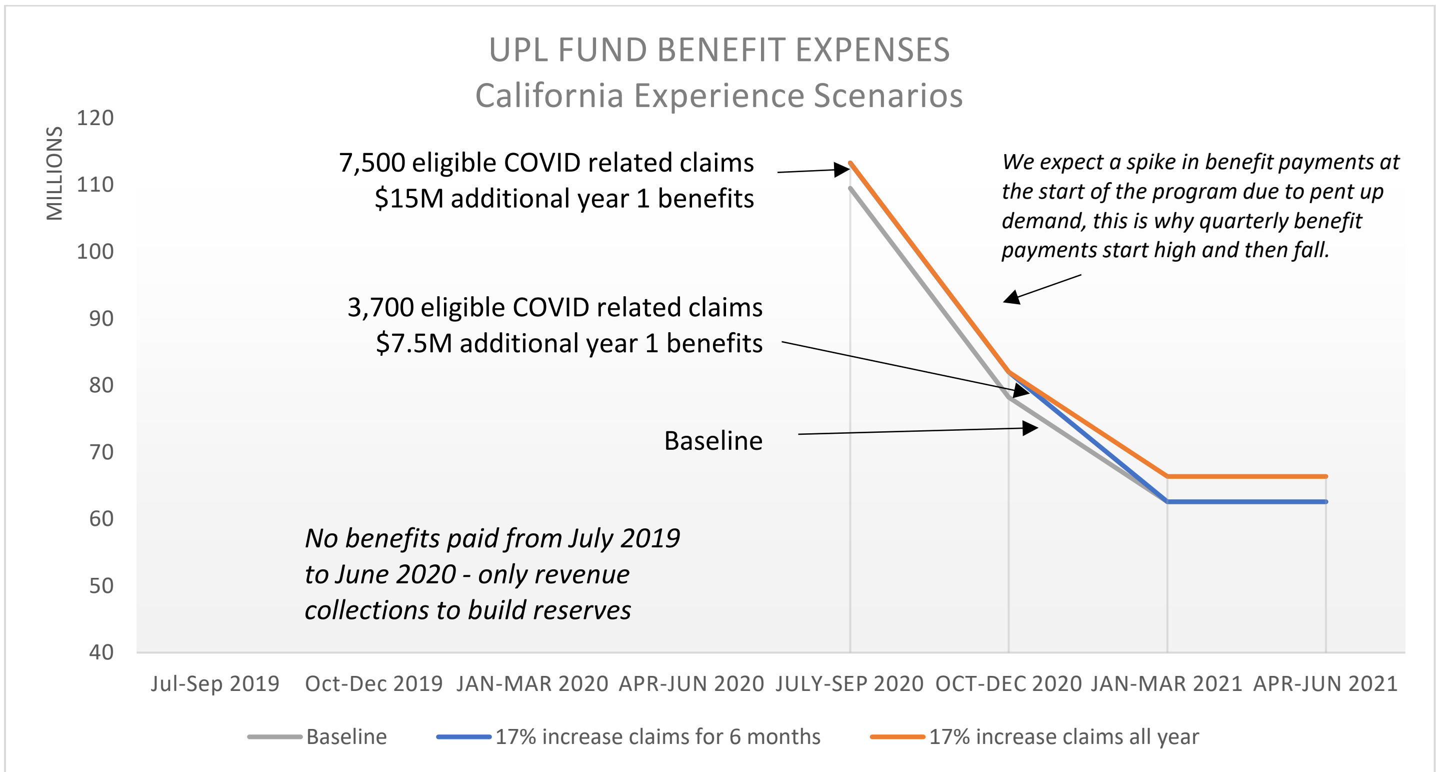




We run two scenarios based on California's two-month trend:

1) **California 6-month scenario** – Estimate benefit cost increase with a 17 percent increase in monthly claims for 6 months. This results in 2,800 additional disability claims costing an additional $4.5M and an additional 942 caring for a family member claims costing an additional $3M.
2) **California 12-month scenario** – Estimate benefit cost increase with a 17 percent increase in monthly claims for a full year. This results in 5,700 additional disability claims costing an additional $9.1M and an additional 1,800 caring for a family member claims costing an additional $6M.

Here are how these scenarios look compared to the baseline expected benefits before the pandemic – the year long scenario increases claims costs by 3.8% over the baseline.



Fund Solvency

None of the scenarios examined in this analysis forecast fund balance dropping below 50 percent of the expected annual benefits. The most extreme scenario – highest expected level infections and zero wage recovery all year – comes close, with the fund balance dropping to 62 percent of expected revenues (or 7 months at the start of the second year). However, we consider the severity of this scenario very unlikely.

Risks to the Analysis

1) Infection estimates highly uncertain. If there is a return of the virus and shutdown scenario in the fall/winter 2020-2021 this could further affect benefit claims. This situation is partially modeled on the revenue side of the analysis in the third scenario. On the benefit side, we assume a high claim rate to hedge against additional claims during the year, but it may not be sufficient if there is a second outbreak wave.

2) State data on COVID impact on temporary disability and PFL is very limited and perhaps not applicable. We have only two months data from California and one month from Rhode Island. The applicability of their experiences to DC are questionable, given that these states may have policy approaches not relevant to the District. For example, Rhode Island made a decision to allow families to claim the benefit to care for children out of school or while being under quarantine[6], while the District law requires a serious illness certified by a medical professional. Rhode Island saw a large increase in claims, but it came back down once the federal government offered higher wage replacement for unemployment.

3) We are modeling pandemic impacts to a program that has not yet begun. It is possible there are flaws in the underlying model unrelated to COVID-19 or the current economic pressures that could exacerbate the pandemic impact estimates made in this report.

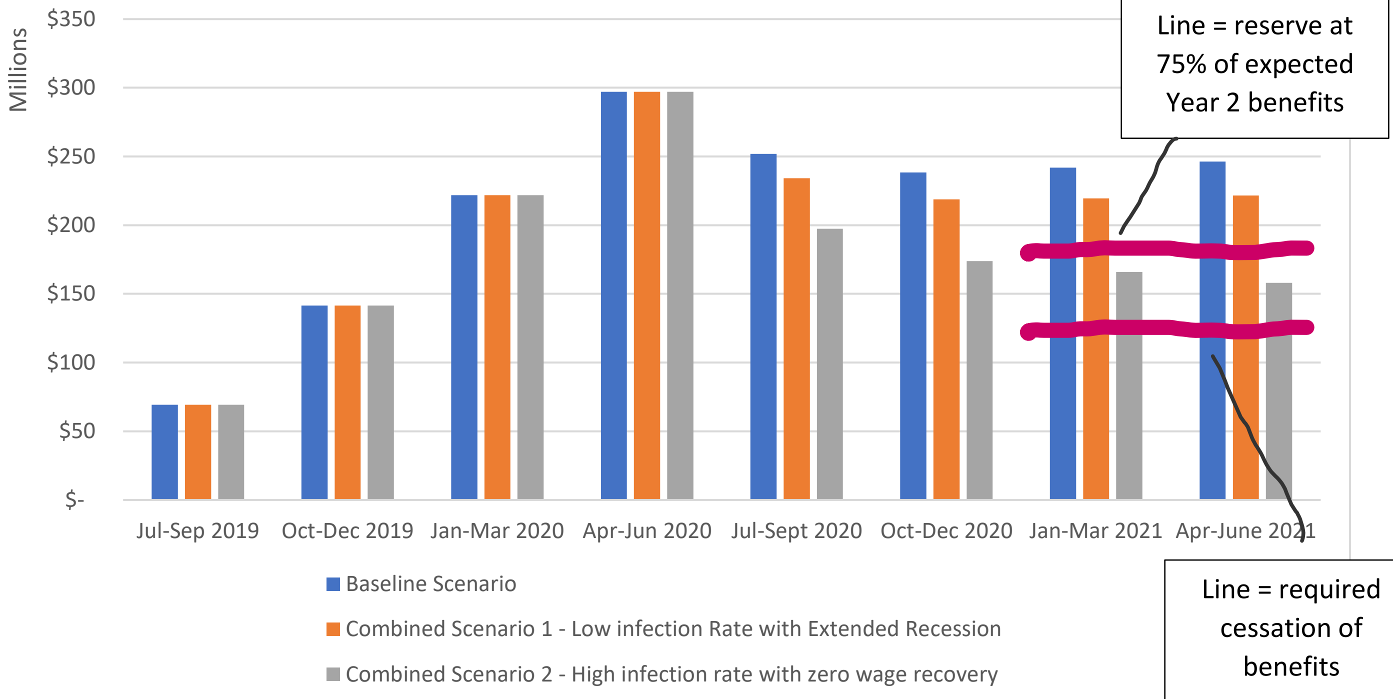
Helpful mitigating factors

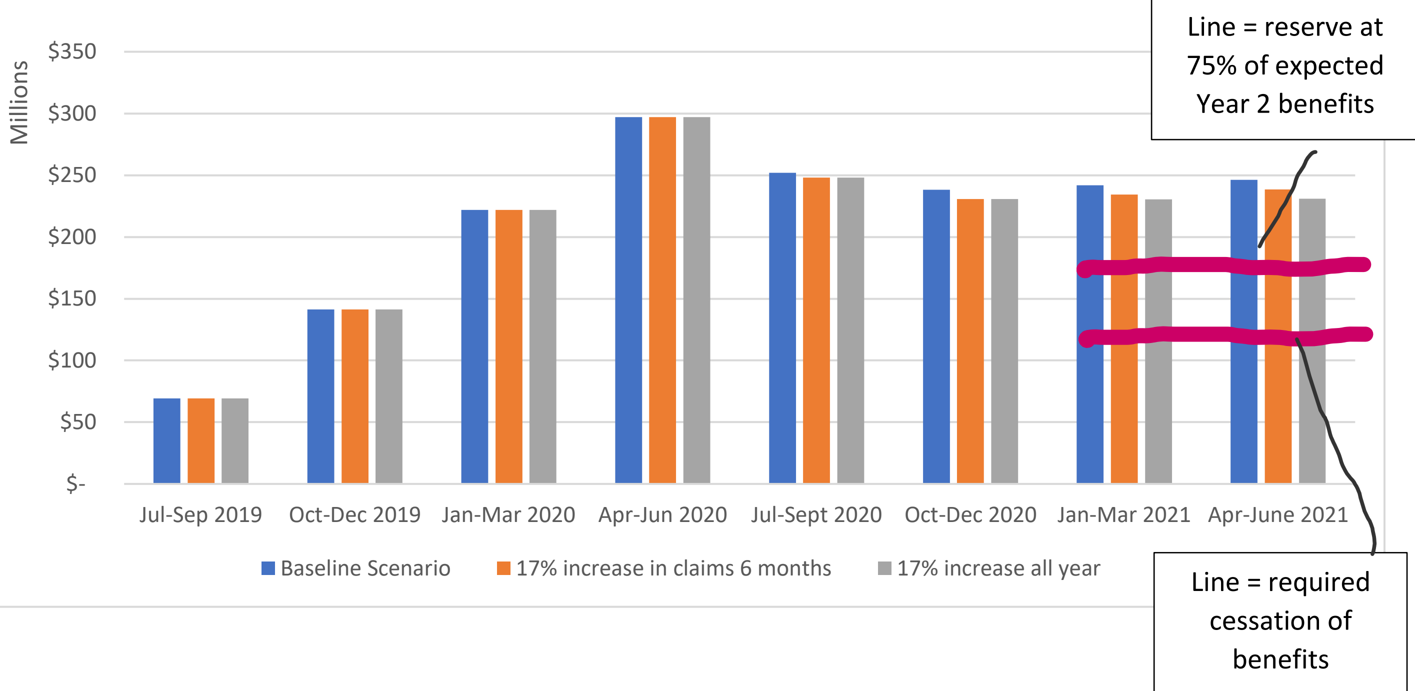
1) Unemployed workers are not eligible for benefits. We have not removed those workers from the benefit cost estimates because of the possibility they will go back to work and become eligible again. However, if unemployment drags on significantly, then claims will be lower, proportional to unemployment rates.

2) Federal legislation providing paid family leave for middle sized companies and other federal stimulus options reduces pressure on the fund, because workers have some other options. (Although it is worth noting the federal legislation on paid family leave is not being utilized at expected rates.)[7] Many provisions expire in December, but Congress is considering extending them.

3) We believe our adjustment to first year claims for parental leave ($65 million) is fiscally conservative. Our estimates for those taking leave for prior year parental leave do not take into account people who have used all of their FMLA, took other leave, or who have moved.

[6] http://www.dlt.state.ri.us/pdfs/COVID-19%20Workplace%20Fact%20Sheet.pdf
[7] https://www.nytimes.com/2020/05/08/upshot/virus-paid-leave-pandemic.html


UPL FUND BALANCE
(Baseline Scenario, Low Infection Rate with extended recession Scenario, High Infection Rate with zero wage recovery all year scenario)
Millions
$350
$300
$250
$200
$150
$100
$50
$-
Jul-Sep 2019
Oct-Dec 2019
Jan-Mar 2020
Apr-Jun 2020
Jul-Sept 2020
Oct-Dec 2020
Jan-Mar 2021
Apr-June 2021
Baseline Scenario
Combined Scenario 1 - Low infection Rate with Extended Recession
Combined Scenario 2 - High infection rate with zero wage recovery
Line = reserve at 75% of expected Year 2 benefits
Line = required cessation of benefits


UPL FUND BALANCE
(Baseline Scenario California Experience Scenario, California Experience Scenario 2)
Millions
$350
$300
$250
$200
$150
$100
$50
$-
Jul-Sep 2019
Oct-Dec 2019
Jan-Mar 2020
Apr-Jun 2020
Jul-Sept 2020
Oct-Dec 2020
Jan-Mar 2021
Apr-June 2021
Baseline Scenario
17% increase in claims 6 months
17% increase all year
Line = reserve at 75% of expected Year 2 benefits
Line = required cessation of benefits

APPENDIX A - Parental Leave Year 1 Policy Change Estimate

Original benefit projections for the program totaled approximately $279M in annual benefits and administrative costs. In this projection, we assumed parental leave claims could only be made for births that occur following the start of the program's benefit payments. However, in March 2020 we learned the Department of Employment Services will allow claims for births occurring up to 1 year ***prior to the start of the benefit payments from program***. This means year 1 of the program will be paying out benefits for births that occur over two years. Twice as many bonding claims could be made in the first year of the program than what was assumed in original cost estimates. In year 2, however, claims will return to normal levels.

To calculate the additional cost of this policy, we assume the same take up rate as a normal year but apply a reduced weekly benefit in each quarter. The reduced benefit stems from the fact that benefit calculations are related to the amount of payroll tax paid in the highest paid 4 of the previous 5 quarters ***immediately preceding the qualifying event***[8]. For example, if a child is born 6 months after collections began, then only two quarters of wages would be used to calculate the average weekly wage. This approach yields an additional cost of $65 million for bonding benefits in the first year of the program due to births in the prior year. The estimate is a conservative approach that does not take into consideration that parents may be less likely to take leave from UPL if they have already taken FMLA or employer-paid leave closer to the birth. UPL law requires that UPL leave runs concurrently with FMLA leave[9].

[8] D.C. Official Code § 32-541.01(1).

[9] D.C. Official Code § 32-541.07(b).