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Contesting Jobless Claims Becomes a Boom Industry

By JASON DePARLE

WASHINGTON — With a client list that reads like a roster of Fortune 500 firms, a little-known company with an odd name, the Talx Corporation, has come to dominate a thriving industry: helping employers process — and fight — unemployment claims.

Talx, which emerged from obscurity over the last eight years, says it handles more than 30 percent of the nation's requests for jobless benefits. Pledging to save employers money in part by contesting claims, Talx helps them decide which applications to resist and how to mount effective appeals.

The work has made Talx a boom business in a bust economy, but critics say the company has undermined a crucial safety net. Officials in a number of states have called Talx a chronic source of error and delay. Advocates for the unemployed say the company seeks to keep jobless workers from collecting benefits.

"Talx often files appeals regardless of merits," said Jonathan P. Baird, a lawyer at New Hampshire Legal Assistance. "It's sort of a war of attrition. If you appeal a certain percentage of cases, there are going to be those workers who give up."

When fewer former workers get aid, a company pays lower unemployment taxes.

Wisconsin and Iowa passed laws to curtail procedural abuses that officials said were common in cases handled

by Talx. Connecticut fined Talx (*pronounced talks*) and demanded an end to baseless appeals. New York, without naming Talx, instructed the Labor Department staff to side with workers in cases that simply pit their word against those of agents for employers.

Talx officials say they have been unfairly blamed for situations caused by tight deadlines, confusing state rules or uncooperative employers. Talx cannot submit information about idled workers, they say, until clients give it to them. They say Talx improves the system's efficiency by mastering the complexities of 50 state programs, allowing employers to focus on their businesses.

"We can speed the whole process, rather than bog it down," said Michael E. Smith, a senior Talx executive.

"The whole idea is to protect those employees who have lost their job through no fault of their own and make sure they get unemployment insurance."

Mr. Smith said employers, not Talx, controlled decisions about which cases to contest. "We just do what the client asks us to do and leave it to the state to decide," he said.

Advocates for the unemployed cite cases like that of Gerald Grenier, 47, who spent four years as a night janitor at a New Hampshire Wal-Mart and was fired for pocketing several dollars in coins from a vending machine. Mr. Grenier, who is mentally disabled, told Wal-Mart he forgot to turn in the change. Talx, representing Wal-Mart, accused him of misconduct and fought his unemployment claim.

After Mr. Grenier waited three months for a hearing, Wal-Mart did not appear. A Talx agent joined by phone, then seemingly hung up as Mr. Grenier testified. The hearing officer redialed and left an unanswered message on the agent's voice mail. The officer called Mr. Grenier "completely credible" and granted him benefits.

Talx appealed, claiming that the officer had denied the agent's request to let Wal-Mart testify by phone. (A recording of the hearing contains no such request.) Mr. Grenier won the appeal, but by then he had lost his apartment and moved in with his sister.

"That was a nightmare," he said.

In the case of Dina Griess, Talx and its client, the subprime lender [Countrywide Financial](#), were involved in what a judge deemed an outright fraud. Ms. Griess worked for Countrywide outside Boston and quit as it

collapsed in 2008, saying she was distressed by internal investigations of lending practices. People can receive unemployment benefits if they quit for “good cause,” like unsafe working conditions, but Talx argued that Ms. Griess’s reason did not meet the legal standard.

She won benefits at a hearing that Talx and Countrywide skipped, but Talx successfully appealed, saying the Countrywide witness had missed the hearing because of a family death. Later asked under oath if that was true, the witness said, “No, it’s not.”

A Massachusetts judge reviewing the case, Robert A. Cornetta of Salem District Court, denounced the deceit and gave Ms. Griess benefits. “The court will not be party to a fraud,” he said.

Despite the large role that Talx and other agents play in a program that spent \$120 billion last year, the federal Department of Labor has done little to measure their impact.

Talx, which is based in St. Louis, declined to make clients available for interviews, citing pledges of confidentiality, and none of those contacted chose to comment. Other major employers that have used Talx include Aetna, AT&T, Best Buy, FedEx, Home Depot, Marriott, McDonald’s and the United States Postal Service. (The New York Times uses Talx for a different service, to answer inquiries from lenders about its employees’ earnings.)

Talx entered the field brashly, buying the industry’s two largest companies on a single day in 2002. In the next few years, it bought five more. Until then, Talx had never handled an unemployment claim, and skeptics wondered how well it could blend seven companies in an unfamiliar industry.

The Federal Trade Commission argued in a 2008 antitrust complaint that the acquisitions, which cost \$230 million, had allowed Talx to “raise prices unilaterally” and “decrease the quality of services.” Talx modified some contracts to settle the case, but admitted no legal violations.

Financially, the gamble paid off: Talx was acquired three years ago by Equifax, the credit-rating giant, for \$1.4 billion. But work once done locally became centralized — at a loss, critics say, of responsiveness and expertise.

Wisconsin officials were among the first to complain, passing a law in 2005 to prevent what they called a common Talx practice: failing to respond to requests for information, only to appeal when workers got

benefits. That clogged the appeals docket and drained the benefits fund, since money sent to ineligible workers was hard to get back.

While the law brought about quicker participation, said Hal Bergan, the state's unemployment insurance administrator, the company's overall speed and accuracy "still leaves something to be desired."

Indeed, years of e-mail messages, obtained through an open records law, show a continually exasperated Wisconsin staff. While a few cited improved performance, others complained that Talx "returned half-empty questionnaires," sent back "minimal or 'junk' info," reported in error that applicants were dead, filed "frivolous protests" and caused "the holdup of many claims."

"Same problems as always," wrote Amy Banicki, a senior manager, in a 2008 e-mail message. "Talx is Talx."

Iowa passed a similar law in 2008 to curtail unnecessary appeals. Of the 10 employers who most often appealed after failing to respond to data requests, officials said nine were represented by Talx, including Cargill, Target, Tyson Foods, Wal-Mart and Wells Fargo.

Connecticut cited "frivolous motions" and "unnecessary delays" in filing a complaint against Talx under a law that regulates employer agents. Without admitting fault, Talx paid a \$12,000 fine and agreed to tell clients in writing that it would not file baseless appeals.

While there is no comprehensive research, the Labor Department did an internal study of 2,000 cases in 2007 and found Talx significantly slower and less complete in answering auditors' questions than employers who handled their own claims. Officials said they did not release the study, which drew on seven states, because they could not ensure it was representative. The New York Times obtained it under the Freedom of Information Act.

Talx supporters say the program's tight deadlines often give Talx just a few days to answer requests. They emphasize that Talx is working with states to develop a common computer format that will help provide the data more rapidly. They also say scrutiny of claims by companies like Talx helps deter fraud.

"Increased vigilance is an appropriate thing," said Douglas J. Holmes, president of UWC, a Washington group that represents employers on unemployment issues. "Integrity is important."

But others say that Talx, by promising to save clients money, has an incentive to fight even legitimate claims. In marketing materials, it warns employers that “a single claim can result in a higher tax rate” and makes the promise that “we deliver increased winning percentages.”

Joseph Walsh, deputy director of Iowa’s employment security agency, said, “We are more likely to see a claim of misconduct that is completely unsupported by the factual record” when agents are involved.

Officials in the New York State Department of Labor were so concerned last year about the credibility of agents that they warned staff members against taking their word over that of jobless workers. Absent other evidence, the officials wrote, “give greater weight to the claimant’s statement.”

That guidance was relevant in the case of Genssy Frias, a Bronx woman who took a maternity leave from a sales job at Lord & Taylor. Ms. Frias said that she tried to return but that her supervisor told her she had been laid off. A Talx agent said Ms. Frias quit because she lacked child care.

“We did not hear from her again,” the agent wrote.

New York canceled Ms. Frias’s benefits and accused her of lying.

In an interview, Ms. Frias said the agent’s response to the state was not only inaccurate but also deceitful, because she did not disclose that she worked for Talx and implied first-hand knowledge by using the pronoun “we.” Had she identified herself as an agent, officials would have given her statement less weight.

A Talx spokeswoman said the agent made a clerical error in writing “we” and called it an isolated incident. Lord & Taylor did not respond to requests for comment.

Ms. Frias appealed and presented a baby sitter’s note, which vouched that she had arranged for child care. Neither Talx nor Lord & Taylor appeared at the hearing, and Ms. Frias won.

“I was thinking, how can they lie like that when they know I didn’t quit?” Ms. Frias said.

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