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HEARING ON THE GREATEST THEFT OF TAXPAYER DOLLARS: UNCHECKED UNEMPLOYMENT FRAUD

HEARING

BEFORE THE

COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTEENTH CONGRESS

FIRST SESSION

FEBRUARY 8, 2023

Serial No. 118–2

Printed for the use of the Committee on Ways and Means

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United States House Committee on
Ways & Means
CHAIRMAN JASON SMITH

FOR IMMEDIATE RELEASE
February 1, 2023
No. FC-02

CONTACT: 202-225-4021

Chairman Smith Announces Hearing on The Greatest Theft of Taxpayer Dollars: Unchecked Unemployment Fraud

House Committee on Ways and Means Chairman Jason Smith (R-MO) announced today that the Committee will hold an oversight hearing to investigate the size and scope of fraud in federal unemployment programs, which skyrocketed during the pandemic. The hearing will take place on **Wednesday, February 8, 2023, at 10:00am in 1100 Longworth House Office Building.**

Members of the public may view the hearing via live webcast available at https://waysandmeans.house.gov. The webcast will not be available until the hearing begins.

In view of the limited time available to hear the witnesses, oral testimony at this hearing will be from invited witnesses only. However, any individual or organization not scheduled for an oral appearance may submit a written statement for consideration by the Committee and for inclusion in the printed record of the hearing.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Please Note: Any person(s) and/or organization(s) wishing to submit written comments for the hearing record can do so here: WMSubmission@mail.house.gov.

Please ATTACH your submission as a Microsoft Word document in compliance with the formatting requirements listed below, **by the close of business on Wednesday, February 22, 2023**. For questions, or if you encounter technical problems, please call (202) 225-3625.

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The Committee relies on electronic submissions for printing the official hearing record. As always, submissions will be included in the record according to the discretion of the Committee. The Committee will not alter the content of your submission but reserves the right to format it according to guidelines. Any submission provided to the Committee by a witness, any materials

submitted for the printed record, and any written comments in response to a request for written comments must conform to the guidelines listed below. Any submission not in compliance with these guidelines will not be printed but will be maintained in the Committee files for review and use by the Committee.

All submissions and supplementary materials must be submitted in a single document via email, provided in Word format and must not exceed a total of 10 pages. Please indicate the title of the hearing as the subject line in your submission. Witnesses and submitters are advised that the Committee relies on electronic submissions for printing the official hearing record.

All submissions must include a list of all clients, persons and/or organizations on whose behalf the witness appears. The name, company, address, telephone, and fax numbers of each witness must be included in the body of the email. Please exclude any personal identifiable information in the attached submission.

Failure to follow the formatting requirements may result in the exclusion of a submission. All submissions for the record are final.

ACCOMMODATIONS:

The Committee seeks to make its facilities accessible to persons with disabilities. If you require accommodations, please call 202-225-4021 or request via email to WMSubmission@mail.house.gov in advance of the event (four business days' notice is requested). Questions regarding accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

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THE GREATEST THEFT OF TAXPAYER DOLLARS: UNCHECKED UNEMPLOYMENT FRAUD

WEDNESDAY, FEBRUARY 8, 2023

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, D.C.

The committee met, pursuant to call, at 10:02 a.m., in Room 1100, Longworth House Office Building, Hon. Jason T. Smith [chairman of the committee] presiding.

Chairman SMITH. The committee will come to order.

Today's hearing has been a long time coming. For more than two years, Republicans have been sounding the alarm about the greatest theft of taxpayer dollars in American history: the massive fraud perpetrated in the unemployment insurance program that skyrocketed with the COVID–19 pandemic. While many Americans who actually qualified for these benefits were left struggling to reclaim their benefits and their identity, upwards of tens of billions of taxpayer dollars had been stolen.

The unemployment benefits passed in the CARES Act came at a time when millions of Americans were losing their jobs overnight, as government shut down businesses and ordered people to stay at home. Livelihoods were ripped away. There is no question, folks needed help, which is exactly why Congress should have protected this program and those who needed it against the criminals who exploited it to commit fraud.

UI fraud is not a victimless crime. For example, a Utah woman lost her job after a cyber criminal stole her identity, bank account information, and weekly benefit check. Many more Americans have stories just like hers. Unemployment insurance met to help them get through temporary joblessness was stolen. Their most sensitive information compromised by criminals, while Democrats in Washington turned a blind eye.

In addition to run-of-the-mill thieves, international crime rings took advantage of our national crisis. Law enforcement busted several rings that made off with millions, often using Americans as money mules to launder money offshore. The Biden Administration's Department of Labor's inspector general believes significant fraud played a role within its estimate, a new estimate, $191 billion in improper payments.

The range of estimates alone is sufficient reason for today's hearing. ID.me, an identity verification company hired by many states, estimated an astounding $400 billion, $400 billion, in fraud. That

suggests thieves may have stolen almost half of the $878 million taxpayers spent on unemployment insurance. The White House itself acknowledged that tens of billions were made in improper payments. They estimate $104 billion lost.

More recently, the Government Accountability Office released its own report, making an early estimate that at least $60 billion went to criminals. In just one example of fraud, one example of fraud, one individual was able to file an unemployment claim in 29 different states, and received over $500,000 in fraudulent benefits.

With these varying estimates, it is clear that the Biden Administration and Congress are in the dark about the size and scope of the greatest theft of taxpayer dollars in American history.

The new Republican majority is turning on the lights. We tried when we were in the minority. As early as 2020, Republicans raised the alarm about fraud based on red flags from the Department of Labor's inspector general and the Secret Service.

As the evidence of fraud escalated, I am sorry to say that Democrats continued to turn a blind eye. They ignored two requests from House Republicans on this committee to hold an oversight hearing just like the one today. Democrats blocked a congressional resolution to get answers about what the Department of Labor knew about funds going to international crime rings. Democrats even voted to end the identity verification requirements and phase-outs of emergency UI programs they had previously supported in December of 2020.

Republicans proposed amendments to protect taxpayers and those who needed to get unemployment benefits. Democrats rejected them outright. Instead, they unilaterally extended unemployment benefits in their so-called bailout bill. They did this, even as most businesses had already reopened at a time when the Congressional Budget Office projected the economy to return to prepandemic levels of growth by the middle of 2021, and unemployment to steadily decline without any further stimulus spending.

The Biden Administration has been asleep at the wheel. In his last State of the Union, the President bragged about appointing a chief pandemic prosecutor 14 months into his Administration. That position has sat vacant for months. The Biden Administration then changed the rules to make it easier for states to sweep potential cases of fraud under the rug.

Those with their identities stolen weren't the only victims. Democrats' unrestrained COVID unemployment insurance programs fueled a labor shortage that punished American families and small businesses, and denied individuals the paycheck and dignity that came from a job. Just two days ago, small business owners in West Virginia shared with this committee their struggle to find workers because Congress made a government check more valuable than a job.

One of our highest responsibilities as legislators is to be good stewards of the American people's hard-earned tax dollars. This hearing is so important and, sadly, long overdue. I look forward to hearing from our witnesses today on exactly what the Biden Administration is doing, and what Congress should have done and must do to go after criminals and make right this multi-billion dollar wrong.

Chairman SMITH. I am pleased to recognize the gentleman from Massachusetts, Mr. Neal, for his opening statement.

Mr. NEAL. Thank you, Mr. Chairman, and I want to say a word of thanks to our witnesses today.

So as Joe Friday might have said in a different age, "just the facts," because that is what we intend to focus on this morning.

On March 11th of 2020, Dr. Fauci gave his warning as to what was coming. Within 3 months, 20 million Americans had lost their jobs. That is the reality. Today, not only have all those jobs been returned, but, just as importantly, there are still 11 million jobs that go unanswered every day in America. Just the facts.

I know, I helped write this legislation, and I didn't write it with just Speaker Pelosi. I wrote it with Secretary Mnuchin in the room over eight days. Much of this legislation was written by the previous Administration.

So just the facts: $849 billion of unemployment insurance. Of that number, it is estimated that 7.1 percent was fraudulently spent. We do not, on the Democratic side, defend fraud. We want the Justice Department, we want our witnesses today to pursue aggressively any of that criminal element that did what they did. But let us not conflate the need for unemployment insurance with what happened during the course of the pandemic.

Twelve million jobs have been created under President Biden, 517,000 last month. And the unemployment rate in America is now 3.4 percent. So the Paycheck Protection Program worked. The unemployment insurance program worked. The relief that we gave to hospitals where people were in the hallways on ventilators, it worked.

So when I asked Secretary Paulson, a Republican who couldn't have been any more cooperative in helping us to devise the program, or we asked Secretary Mnuchin, or we asked Secretary Rubin, Secretary Yellen, and Secretary Lew as to how to proceed, they gave us the advice to get cash into the hands of the people at the bottom of the economic scale who really need it.

So, what did we do? We devised an initiative to make sure that the community bankers were in the middle of it, because they had good credit histories with the people that needed the money.

How about the idea of what we were able to do with the credit unions and CDFIs? What we did overwhelmingly worked. And to pick on people today, of the 20 million who lost their jobs, and to suggest that they stayed home during the pandemic—the number of women who have not come back to the workforce because they couldn't find childcare, those are the issues that the committee should be focused on this morning.

Nobody condones fraud. We want those to be pursued who participated in a criminality that relates to fraud. But the idea that there is a massive number of people staying home because they can collect unemployment insurance? Tell that to the members of the AFL–CIO and the trade unions that had to stop construction jobs during the course of the pandemic. Tell that to the hospital workers who came to work exhausted every single day to make sure that we got past the pandemic.

If the reporters who covered the early stages of the pandemic, when they pointed out the issues, they said early on, "oh, China

is doing a great job." I don't think anybody who looked back in the last six months would say that China did a better job than the United States.

Then we used the example of what a great job New Zealand was doing compared to the United States. The prime minister just stepped down last week, the approval rating 39 percent.

We restored the jobs that were necessary in America. It should be a banner of success that we are celebrating this morning, Republican and Democrat.

But just another key phrase here to point out. Much of the unemployment insurance was passed out during the Trump Administration. That is a fact.

The idea once again that there is this group that is out there in America that doesn't want to work because they can secure unemployment benefits in Florida, $250 a week in unemployment insurance, that is nonsense.

And the other part of this I think is important. Unemployment insurance is like a trampoline. You hit it on the downside, and you bounce back up into the mainstream of the American economy. And that is precisely what has happened.

So, from our witnesses today, we hope that they will outline precisely what it is they are doing to secure charges of criminality, but understand in terms of proportionality what really happened here. Overwhelmingly, the American economy rebounded because of what we did. And much of it, by the way, came in this committee, and most of it unanimously. It was passed through the doors of this room.

So I am proud of what we did, and I hope the focus today is going to be on the role that unemployment insurance made in making sure that people could keep the lights on, turn the heat on, and make it to the grocery stores to buy the sustenance of what they needed every single day.

As I started, and we will conclude, just the facts this morning.

Chairman SMITH. Thank you——

Mr. NEAL. Thank you, Mr. Chairman.

[Applause.]

Chairman SMITH. Thank you, Ranking Member. I will now introduce our witnesses.

Thank you all so much for taking your time out of your busy schedules for being here.

Gene Dodaro is the comptroller general of the United States.

Larry Turner is the inspector general of the Department of Labor.

And Mr. Michael Horowitz is chair of the Pandemic Response Accountability Committee, and the inspector general of the Department of Justice.

Mr. Dodaro, you are recognized for your opening statement.

STATEMENT OF GENE DODARO, COMPTROLLER GENERAL, GOVERNMENT ACCOUNTABILITY OFFICE

Mr. DODARO. Thank you very much, Mr. Chairman. Ranking Member Neal, members of the committee. I am very pleased to be here today to talk about the uninsurance—unemployment insurance program during the pandemic.

The program helped millions of Americans in need, but there was widespread fraud that occurred. And I would like to focus my opening remarks today on three reasons why I believe that happened.

Number one, neither the Labor Department nor the states were prepared. In 2016 we worked with this—with the Congress to pass the Fraud Reduction and Data Analytics Act. That was intended for Federal agencies to be prepared to prevent fraud in the first place, which is the most effective way to deal with this issue. The Labor Department, like many Federal agencies, were slow to implement these framework principles that GAO had outlined on best practices in the Federal Government. Therefore, they were not as prepared as they should have been before the pandemic.

States had antiquated IT systems. Many of them had known this, some of them dating back decades. And also, right before the pandemic, the unemployment rate was very low, so the staffing levels of the state employment agencies were low. So, they weren't as prepared, either.

We made recommendations to the Labor Department. They haven't implemented those fully yet. They are beginning to work on them, but they need to fully implement our recommendations, and be in accordance with the law.

Secondly, the urgent need to get the money out led to trade-offs that limited the ability of the government and the states to achieve the accountability and transparency objectives of the legislation Congress intended. This was due to allowing people to self certify their result—their eligibility for programs; eliminate or reduce the need for them to provide supporting documentation for their claims of eligibility; reducing the waiting time that was normally in place at the states before they provided the first unemployment check.

Now, Congress rectified these issues in December 2020, when they passed the Consolidated Appropriations Act, and then required more documentation for eligibility determinations. The states started taking corrective measures. But this was too late; hundreds of billions of dollars had already been spent. And while they are welcome, and they need to be fully implemented, and congressional oversight is needed to make sure this happens, they were not taken as early as possible in the—into this—reduce the susceptibility to fraud.

And as a result of these trade-offs, self-certification in particular, these programs were more susceptible to fraud than they would have been otherwise during the program.

Lastly, third, I would—there was an improper payment problem before the pandemic occurred in the unemployment insurance program. The rates often were in double digits in terms of improper payments. These are payments that should not have been made, or were made in the wrong amounts. And there was also fraud in the unemployment insurance program ahead of time, as well.

Both of these should have been harbingers to alert the Labor Department and the states that they needed to take stronger measures, particularly with the huge amount of claims that occurred during a period of time.

As Ranking Member Neal mentioned, you know, millions of people became unemployed at the same time. This really has happened in our economy, where so many people have applied for

uninsurance and been out of jobs in almost every sector of the economy during this period of time. So, more measures should have been taken.

Now, we have made recommendations in many cases to have this underlying improper payment problem—and it doesn't happen just in the unemployment insurance program, it happens in Medicare, Medicaid, and 86 different programs across the Federal Government's activities. But it was there, it should have been dealt with. And if we can't deal with the Federal Government and the states level to reduce improper payments in normal times, then you are bound to have problems when there are emergencies, and there will be future emergencies, and so people need to get prepared.

So, I would urge this committee to continue their oversight to make sure the labor departments and the states take action on our recommendations so that we are much better prepared next time to deal with these emergency situations.

So, thank you very much, Mr. Chairman and members of the committee. I would be happy to answer questions at the appropriate time.

[The statement of Mr. Dodaro follows:]

United States Government Accountability Office



Testimony

Before the Committee on Ways and Means, House of Representatives

For Release on Delivery
Expected at 10:00 a.m. ET
Wednesday, February 8, 2023

UNEMPLOYMENT INSURANCE

DOL Needs to Address Substantial Pandemic UI Fraud and Reduce Persistent Risks

Statement of Gene L. Dodaro
Comptroller General of the United States

GAO-23-106586

GAO Highlights

Highlights of GAO-23-106586, a testimony before the Committee on Ways and Means, House of Representatives

February 2023

UNEMPLOYMENT INSURANCE

DOL Needs to Address Substantial Pandemic UI Fraud and Reduce Persistent Risks

Why GAO Did This Study

The UI system has faced long-standing challenges with program integrity, which increased dramatically during the pandemic. According to DOL data, expenditures across all UI programs totaled approximately $878 billion from April 2020 through September 2022. This included benefits as part of four new UI programs Congress created to support workers during the pandemic. The unprecedented demand for benefits and the need to quickly implement the new programs increased the risk of financial fraud. Due to these circumstances and other challenges, GAO added the UI system to its High Risk Program in June 2022.

This statement addresses: (1) fraud in the UI programs, (2) UI fraud risks and management of such risks, (3) continued UI improper payment problems, and (4) the addition of the UI system to GAO's High Risk Program.

This statement is based on GAO's body of work related to the UI system during the pandemic. More detailed information on the objectives, scope, and methodology that form the basis of the statement can be found in individual reports, which are listed in the full hearing statement.

What GAO Recommends

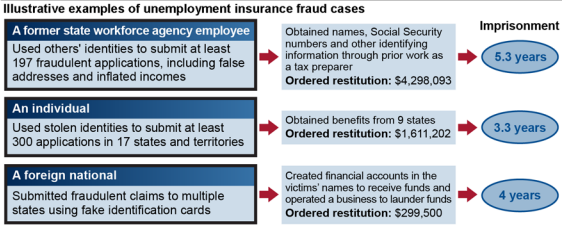
As of January 2023, GAO has 19 open recommendations to DOL, including eight to strengthen its management of UI fraud risks. Recommendations include considering options to prevent fraud in programs designed to help self-employed and contingent workers, designating an entity to manage fraud risks, performing fraud-risk assessments, and developing and implementing an antifraud strategy.

View GAO-23-106586. For more information, contact Seto Bagdoyan at (202) 512-6722 or bagdoyans@gao.gov or Jared B. Smith at (202) 512-2700 or smithjb@gao.gov.

What GAO Found

GAO found evidence of substantial levels of fraud and potential fraud in unemployment insurance (UI) during the pandemic. GAO estimated over $60 billion in fraudulent UI payments by extrapolating the lower bound of the Department of Labor's (DOL) 2021 estimated national fraud rate for the regular UI program. However, such an extrapolation has inherent limitations and should be interpreted with caution. GAO is working to develop a more comprehensive estimate on the total extent of UI fraud during the pandemic. The DOL Office of Inspector General's UI fraud investigations resulted in over 1,200 indictments or initial charges from April 2020 through January 2023. Each week that office continues to open over 100 new UI fraud-related investigative matters.

Illustrative examples of unemployment insurance fraud cases



Source: GAO analysis of Department of Justice information. | GAO-23-106586

DOL and the states were not adequately prepared to handle UI fraud risks when the pandemic began. DOL has taken some recent steps to address UI fraud risks. For example, it has provided state workforce agencies with fraud-related guidance, integrity tools, and grant funding. DOL, however, has not yet implemented an antifraud strategy as called for by leading practices in GAO's Fraud Risk Framework.

The expediting of COVID-19 relief funding exacerbated an underlying improper-payment problem in the federal government, including UI, which predated the pandemic. For example, DOL reported an increase in estimated improper payments from $8.0 billion (9.2 percent estimated improper payment rate) for fiscal year 2020 to $78.1 billion (18.9 percent estimated improper payment rate) for fiscal year 2021. For fiscal year 2022, DOL reported estimated improper payments of $18.9 billion (22.2 percent estimated improper payment rate).

In June 2022, GAO added the UI system to its High Risk Program based on the system's need for transformation. The system's administrative and program integrity challenges pose significant risks to service delivery and expose the system to significant financial losses. Long-standing challenges with UI administration and outdated IT systems have further affected states' ability to meet the needs of unemployed workers, especially during economic downturns. Such challenges have also contributed to impaired service, declining access, and disparities in benefit distribution.

Chairman Smith, Ranking Member Neal, and Members of the Committee:

I appreciate the opportunity to discuss our work on fraud risks in the Department of Labor's (DOL) unemployment insurance (UI) programs during the COVID-19 pandemic. The UI system, which is jointly administered with states, has faced long-standing challenges with effective service delivery and program integrity. These challenges increased dramatically during the pandemic because of historic levels of job losses, among other factors. The CARES Act created three federally funded temporary programs that expanded UI benefit eligibility, enhanced benefits, and extended benefit duration.[1] These programs were:

1. *Pandemic Unemployment Assistance (PUA)* authorized UI benefits for individuals not otherwise eligible for UI benefits, such as self-employed and certain gig economy workers, who were unable to work because of specified COVID-19-related reasons.[2]
2. *Federal Pandemic Unemployment Compensation (FPUC)* generally authorized an additional weekly benefit for individuals who were

[1]In this testimony, we refer to the UI program—excluding the temporary UI programs created by the CARES Act and other legislation—as the regular UI program and the benefits paid under the program as regular UI benefits. We refer to the temporary UI programs created by the CARES Act and the Consolidated Appropriations Act, 2021, as pandemic UI programs. CARES Act, Pub. L. No. 116-136, 134 Stat. 281 (2020) and Consolidated Appropriations Act, 2021 Pub. L. No. 116-260, div. M and N, 134 Stat. 1182 (2020).

[2]At the time of the program's expiration in September 2021, PUA generally authorized up to 79 weeks of benefits. Pub. L. No. 117-2, § 9011(a), (b), 135 Stat. 4, 118; Pub. L. No. 116-260, div. N, tit. II, § 201(a), (b), 134 Stat. 1182, 1950-1951 (2020); Pub. L. No. 116-136, § 2102, 134 Stat. 281, 313 (2020).

eligible for weekly benefits under the permanent UI programs—e.g., regular UI—and the temporary CARES Act UI programs.[3]

3. *Pandemic Emergency Unemployment Compensation (PEUC)* generally authorized additional weeks of UI benefits for those who had exhausted their regular UI benefits.[4]

In addition, the Consolidated Appropriations Act, enacted in December 2021, created the Mixed Earner Unemployment Compensation (MEUC) program, which was extended by the American Rescue Plan Act of 2021.[5] According to DOL, the MEUC program was intended to cover regular UI claimants whose benefits do not account for significant self-employment income and who thus may have received a lower regular UI benefit than they would have received had they been eligible for PUA.

Timely payments allowed unemployed workers to address financial hardships such as inability to pay for rent, utilities, and groceries. As we found in June 2022, 30 empirical studies we reviewed showed the effect of UI program expansions during adverse times, such as the 2007-2009

[3]FPUC generally authorized an additional $600 benefit through July 2020 as well as an additional $300 benefit for weeks beginning after December 26, 2020, through the end of the program in September 2021. Pub. L. No. 117-2, § 9013, 135 Stat. 4, 119; Pub. L. No. 116-260, div. N, tit. II, § 203, 134 Stat. 1182, 1953; Pub. L. No. 116-136, § 2104, 134 Stat. 281, 318. In addition, on August 8, 2020, the President signed a memorandum directing the Department of Homeland Security's Federal Emergency Management Agency (FEMA) to provide up to $44 billion in lost wages assistance. Pursuant to the presidential memorandum, upon receiving a FEMA grant, states and territories could provide eligible claimants $300 or $400 per week—which included a $300 federal contribution—in addition to their UI benefits. The White House, Memorandum on Authorizing the Other Needs Assistance Program for Major Disaster Declarations Related to Coronavirus Disease 2019 (Aug. 8, 2020). FEMA approved 53 states and territories to provide lost wages assistance to eligible claimants for a maximum of 6 weeks of unemployment experienced from the week ending on August 1, 2020, through the week ending on September 5, 2020.

[4]At the time of the program's expiration in September 2021, PEUC generally authorized an additional 53 weeks of benefits for claimants who were fully unemployed. Pub. L. No. 117-2, § 9016(a), (b), 135 Stat. 4, 119-120; Pub. L. No. 116-260, div. N, tit. II, § 206(a), (b), 134 Stat. 1182, 1954; Pub. L. No. 116-136, § 2107, 134 Stat. 281, 323.

[5]The MEUC program, which was voluntary for states, authorized an additional $100 weekly benefit for certain UI claimants who received at least $5,000 of self-employment income in the most recent tax year prior to their application for UI benefits. The $100 weekly benefit was in addition to other UI benefits received by claimants; however, individuals receiving PUA benefits could not receive MEUC payments. The MEUC program expired in September 2021. Pub. L. No. 117-2, § 9013(a), 135 Stat. 4, 119; Pub. L. No. 116-260, div. N, tit. II, § 261(a)(1), 134 Stat. 1182, 1961.

recession and the COVID-19 pandemic.[6] The expansions specifically helped to stabilize the economy, prevented detrimental outcomes from worsening, and had a limited effect on workers' incentives to return to work. Some of the studies we reviewed also showed that UI expansion had other positive benefits such as an improved labor market.

However, the unprecedented demand for UI benefits and the programmatic flexibilities allowed during the pandemic also increased the risk of financial fraud as well as other improper payments.[7] From April 2020 through September 2022, expenditures across the UI system totaled approximately $878 billion, according to DOL data.[8] Most of these funds went to the intended recipients in the intended amounts, providing needed assistance. In other instances, funds were paid improperly, including benefits going to those who sought to defraud the UI program.

In December 2022, we estimated over $60 billion in fraudulent UI payments were dispensed to applicants by extrapolating the lower bound of DOL's 2021 estimated national fraud rate for the regular UI program.[9] However, such an extrapolation has inherent limitations and should be interpreted with caution. One of the many challenges in determining the full extent of fraud is its deceptive nature. Programs can incur financial losses related to fraud that are never identified and such losses are difficult to reliably estimate. In ongoing work, we are seeking to calculate

[6]GAO, *Unemployment Insurance: Pandemic Programs Posed Challenges, and DOL Could Better Address Customer Service and Emergency Planning,* GAO-22-104251 (Washington, D.C.: June 7, 2022).

[7]The Payment Integrity Information Act of 2019 defines an improper payment as any payment that should not have been made or was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements. 31 U.S.C. § 3351(4). As such, improper payments refer to all kinds of erroneous payments, including but not limited to those resulting from fraud. Fraud involves obtaining something of value through willful misrepresentation. All payments made as a result of fraudulent activities are considered to be improper payments. Improper payments could suggest that a program may be vulnerable to fraud. However, improper payments amounts are not a valid indicator of the extent of fraud in a particular program.

[8]This amount includes about $209 billion in expenditures under the regular and Expanded Benefits programs and about $669 billion in expenditures under the pandemic relief programs that expired on September 6, 2021.

[9]GAO, *Unemployment Insurance: Data Indicate Substantial Levels of Fraud during the Pandemic; DOL Should Implement an Antifraud Strategy*, GAO-23-105523, (Washington, D.C.: Dec. 22, 2022).

a comprehensive estimate of UI fraud and are exploring ways to estimate the amount of fraud more broadly across the federal government.

The increased significance of the UI system during the pandemic highlights its vulnerabilities and susceptibility to improper payments, fraud, waste, abuse, and mismanagement. In an out-of-cycle action, we added the UI system to GAO's High Risk Program in June 2022.[10] We did so based on findings from the DOL Office of Inspector General (OIG) and our prior work, as well as the urgent need to address persistent issues in the UI system—including funding uncertainties and outdated IT systems. This designation is intended to help spur sustained progress in resolving persistent issues by shining a spotlight on such deficiencies and ways the federal government can lead efforts to find solutions.

My comments today address our body of work on the UI programs. Specifically, I will discuss

1. Fraud in the UI programs,
2. UI fraud risks and the management of such risks,
3. Continued problems with UI improper payments, and
4. The addition of the UI system to GAO's High Risk Program.

We conducted the work on which this statement is based in accordance with generally accepted government auditing standards. More detailed information on the objectives, scope, and methodology that this statement is based on can be found in the individual reports from which we obtained this information. See appendix I for a list of related reports.

[10]GAO, *Unemployment Insurance: Transformation Needed to Address Program Design, Infrastructure, and Integrity Risks*, GAO-22-105162 (Washington, D.C.: June 7, 2022). The High Risk Program highlights federal programs and operations that we have determined are in need of transformation. It also names federal programs and operations that are vulnerable to waste, fraud, abuse, and mismanagement. We release a High Risk series report every two years at the start of each new Congress. As in this case, we sometimes make out-of-cycle designations to highlight urgent issues, help ensure focused attention, and maximize the opportunity for the federal government to take action.

Federal and State Measures and Estimates Indicate Substantial Fraud and Potential Fraud in UI Programs during the Pandemic but Do Not Fully Reflect the Extent of Fraud

Existing sources highlight the substantial nature of UI fraud during the pandemic but do not reliably indicate the full extent of fraud. Multiple state and federal entities have reported on the elevated risks associated with UI during the pandemic. For example:

- In October 2021, we reported that fraudulent and potentially fraudulent activity increased substantially after implementation of the pandemic UI programs, relative to the amount of such activity in the regular UI program before the pandemic.[11]
- In its fiscal year 2020 Agency Financial Report, DOL acknowledged an increase in potentially fraudulent activity related to organized fraud schemes targeting the pandemic UI programs.[12]
- According to National Association of State Workforce Agencies officials, the UI system faced unrelenting attacks by foreign organized crime groups during the pandemic.[13]
- In a March 2021 press release, the U.S. Secret Service noted that its early investigation and analysis indicated that international organized criminal groups have targeted UI funds using stolen identities to file for UI benefits.

The risk of fraud was especially high in the PUA program.[14] The CARES Act created the PUA program and initially allowed applicants to self-certify their eligibility and did not require them to provide any documentation of self-employment or prior income. In addition, the expanded coverage offered under the PUA program posed significant challenges to states as they implemented processes to determine initial and continued program eligibility for participants. As we have previously reported, relying on

[11]GAO, *COVID-19: Additional Actions Needed to Improve Accountability and Program Effectiveness of Federal Response,* GAO-22-105051 (Washington, D.C.: Oct. 27, 2021).

[12]Department of Labor, *Agency Financial Report Fiscal Year 2020* (Washington, D.C.: Nov. 16, 2020).

[13]The National Association of State Workforce Agencies represents all 50 state workforce agencies, the District of Columbia, and U.S. territories.

[14]PUA expanded unemployment benefit eligibility to traditionally ineligible workers, including self-employed and certain contingent workers. In June 2022, we recommended, among other things, that DOL consider options for fraud prevention when studying and advising Congress and policy makers on options for supporting self-employed and contingent workers during the period of involuntary unemployment. DOL agreed with the recommendation. GAO, *Pandemic Unemployment Assistance: Federal Program Supported Contingent Workers amid Historic Demand, but DOL Should Examine Racial Disparities in Benefit Receipt*, GAO-22-104438 (Washington, D.C.: June 7, 2022).

program participants to self-report and self-certify information on agency forms, instead of verifying such information independently, could cause an agency to miss opportunities to prevent program fraud and abuse.[15] To help address this risk, the Consolidated Appropriations Act of 2021 included a requirement for individuals to submit documentation of employment or self-employment when applying for the PUA program.[16]

According to DOL OIG officials, since the pandemic started, it has seen an increase of more than 1,000 times in the volume of its UI work involving complaints and investigations. For instance, from April 1, 2020, through January 10, 2023, DOL OIG opened over 198,000 investigative matters involving UI.[17] The DOL OIG continues to open about 100 to 300 new UI fraud-related matters each week. From April 1, 2020, through January 10, 2023, DOL OIG UI fraud investigations resulted in over 1,239 indictments or initial charges, according to DOL OIG officials. In addition, according to these officials, their investigations and investigative assistance to state workforce agencies has produced $905 million in seizures, court-ordered restitutions, and other UI fraud monetary results.[18]

Through our review of DOL OIG reports, state audits, and Department of Justice (DOJ) cases, we previously identified several fraud risks in the UI programs and identified factors contributing to fraud risk.[19] Specifically, we identified several fraud cases that relied on a variety of mechanisms, which illustrate some of the fraud risks in pandemic UI programs including:

[15]GAO-22-105051.

[16]The Consolidated Appropriations Act, 2021, extended the PUA program and included a requirement that all PUA claimants must submit documentation substantiating employment, self-employment, or the planned commencement of employment or self-employment. Pub. L. No. 116-260, div. N, tit. II, § 241(a), 134 Stat, 1182, 1959-60.

[17]The DOL OIG categorizes all investigative matters as either a complaint or an investigation. Complaints include those received through the DOL OIG's hotline or the Department of Justice's National Center for Disaster Fraud. Complaints require further review before determining if the DOL OIG will open an investigation. An investigation is something that, if proven, the DOL OIG anticipates will result in some type of criminal, civil, or administrative outcome.

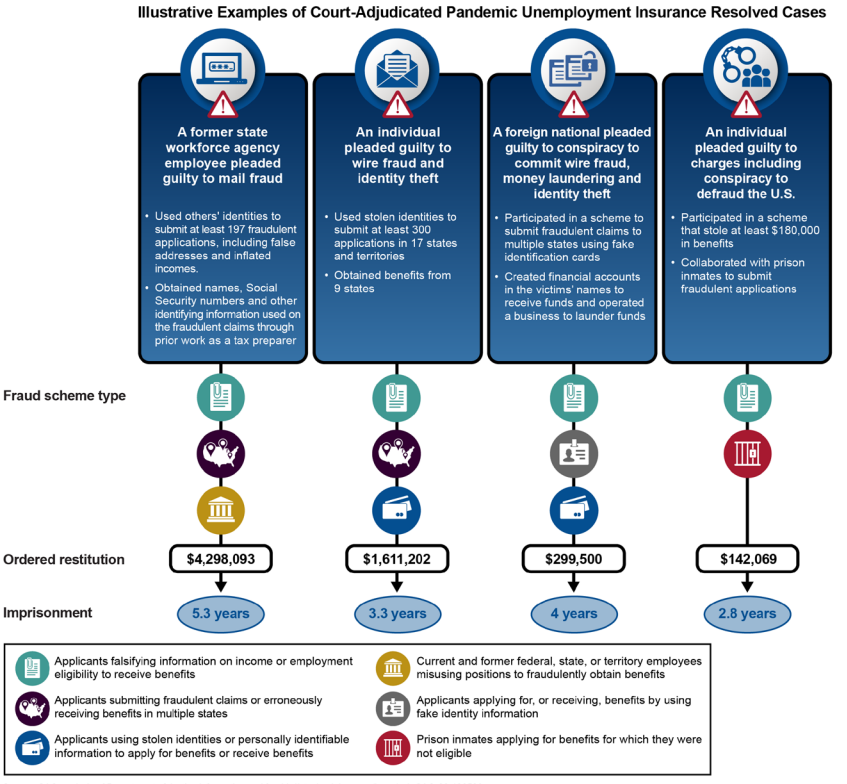
[18]According to the DOL OIG, these include, but are not limited to, funds seized through forfeiture from bank accounts used to receive illicit proceeds of UI fraud, funds administratively returned to state workforce agencies by financial institutions based on the DOL OIG's work, and court-ordered restitution amounts.

[19]GAO-22-105051.

- applicants falsifying information on income or employment eligibility to receive benefits,
- applicants using stolen identities or personally identifiable information to apply for benefits or receive benefits,
- applicants applying for, or receiving, benefits by using fake identity information,
- applicants submitting fraudulent claims or erroneously receiving benefits in multiple states,
- prison inmates applying for benefits for which they were not eligible, and
- current or former federal or state or territory employees' misusing their positions to fraudulently obtain benefits for themselves or others.

Figure 1 provides four specific examples of UI fraud cases along with the outcomes of the court adjudications.

Figure 1: Examples of Court-Adjudicated Unemployment Insurance Cases during the Pandemic and Related Fraud Risks, Charges, Sentences, and Restitution Amounts



Source: GAO analysis of Department of Justice information and freebird/stock.adobe.com (icons). | GAO-23-106586

Many individuals have already pleaded guilty to federal charges of defrauding UI. Based on our analysis of DOJ public statements and court documentation, we found that from March 2020 through January 13, 2023, at least 380 individuals pleaded guilty to and three individuals were convicted at trial of federal charges of defrauding UI programs. Of the 380 individuals, at least 40 also pleaded guilty to fraud related to other pandemic relief programs.[20]

The number of individuals or entities facing UI fraud-related charges has grown since March 2020 and will likely continue to increase, as these cases take time to develop.[21] Based on our analysis of DOJ public statements and court documentation through January 13, 2023, federal charges were pending against at least 240 individuals for attempting to defraud pandemic UI programs.

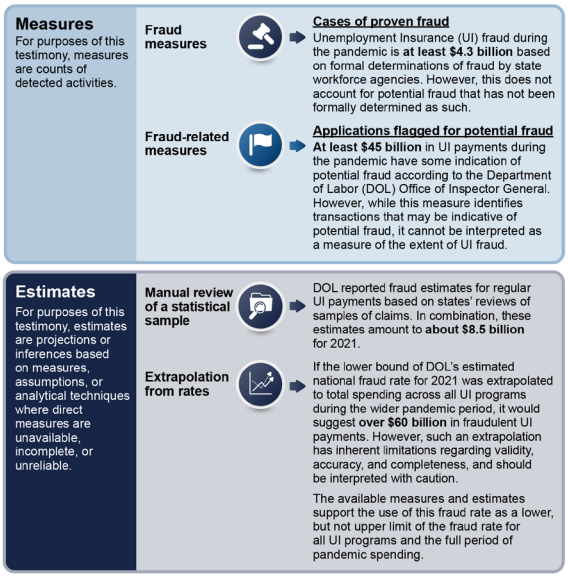
Federal and state entities have produced several measures and estimates of UI fraud during the pandemic that highlight the substantial fraud and potential fraud in UI programs. While each type of measure and estimate has strengths and limitations, as described below, none completely and reliably indicates the extent of fraud in UI programs during the pandemic.

UI fraud during the pandemic is at least $4.3 billion according to reporting by states from April 2020 through June 2022. This total is based on the amount of payments associated with a formal determination of fraud reported by state workforce agencies. This amount and other similar fraud measures do not account for potential fraud that has not yet been formally determined as such. See figure 2.

[20]Of the individuals or entities who pleaded guilty to or were convicted at trial, at least 291 had been sentenced as of January 13, 2023. This analysis is limited to the DOJ cases we identified from public sources, which may not include all criminal and civil cases charged by DOJ as of January 13, 2023. This analysis does not include criminal and civil cases charged by states.

[21]Generally, the statute of limitations for mail fraud and wire fraud prosecutions is 5 years (18 U.S.C. § 3282); however, the statute of limitation for prosecutions of mail and wire fraud that affect a financial institution is 10 years (18 U.S.C. § 3293).

Figure 2: Examples and Definitions of Measures and Estimates



Source: GAO, rashadashurov/stock.adobe.com and rawku5/stock.adobe.com (icons). | GAO-23-106586

Reporting on potential fraud, DOL OIG found that at least $45 billion in UI payments from March 2020 through April 2022 had some indication of fraud in four high risk areas.[22] The risk areas were: (1) multi-state claimants, (2) Social Security numbers of the deceased, (3) federal prisoners, and (4) suspicious email accounts. However, some of these flagged transactions may not be fraudulent and not all fraudulent

[22]Department of Labor, Office of Inspector General, *Alert Memorandum: Potentially Fraudulent Unemployment Insurance Payments in High Risk Areas Increased to $45.6 Billion*, Report No. 19-22-005-03-315 (Washington, D.C.: Sept. 21, 2022).

transactions may be flagged. More generally, these types of potential fraud measures can be used to identify transactions that may be indicative of potential fraud. They cannot, though, be interpreted directly as measures of the extent of fraud in the UI programs during the pandemic.

In addition to fraud and fraud-related measures, estimates can be used to approximate the extent of fraud and potential fraud beyond what can be directly counted. No national estimate of UI fraud has been reported that covers all UI programs for the full period of pandemic spending. However, DOL has reported an estimated $8.5 billion in fraud for regular UI payments during the performance year 2021, covering July 1, 2020, through June 30, 2021. If the lower bound of this fraud rate (7.6 percent) was extrapolated to total spending across all UI programs during the wider pandemic period, it would suggest over $60 billion in fraudulent UI payments. From our review of the available measures and estimates, we found that the 2021 regular fraud rate served as an approximate lower limit of the fraud rate for all UI programs and the wider period of pandemic spending. The actual amount of fraud in UI programs during the pandemic may be substantially higher than the estimated $60 billion lower limit.[23]

DOL OIG relied on a similar approach when it reported an estimated $163 billion in pandemic UI payments could have been paid improperly and noted that a significant portion of this total may be attributable to fraud. To complete its improper payment calculation, DOL OIG multiplied DOL's estimated improper payment rate for the regular UI program to all of the pandemic spending.[24]

Both the DOL OIG estimate of improper payments and our $60 billion estimate of fraud treat the higher risk PUA program claims as having the same improper payment and fraud rates as the regular UI claims. Therefore, the actual improper payment and fraud totals are likely substantially higher than the estimates reported here. DOL has started an effort to create a national estimate of the improper payment rate for the

[23]Extrapolation is a technique that can offer a rough or notional estimate of fraud or potential fraud even if data on a specific measure or rate are unavailable but may have limitations related to validity, accuracy, and completeness.

[24]U.S. Department of Labor Office of Inspector General, Testimony before the U.S. Senate Committee on Homeland Security and Governmental Affairs, *Pandemic Response and Accountability: Reducing Fraud and Expanding Access to COVID-19 Relief through Effective Oversight*, Number 19-22-003-03-315, March 17, 2022.

PUA program. According to DOL, the outcomes are expected in fiscal year 2023.

The national estimation efforts coordinated by DOL allow for the meaningful combination of state-level estimates. States have also produced separate reviews of their own UI programs, and these reviews have sometimes included individual state estimates. The Pandemic Response Accountability Committee has tracked such estimates and found that 21 states have reported $58.4 billion in fraud estimates across pandemic programs.[25] This total should be interpreted with caution since it does not cover all states and the states it does cover differ in terms of the approaches used, populations assessed, and time periods covered.

Given the significant uncertainty remaining, we continue to study the extent of fraud in UI programs during the COVID-19 pandemic. We plan to develop a more comprehensive estimate, including a lower and upper range, on the total extent of UI fraud during the COVID-19 pandemic.

[25]See Pandemic Response Accountability Committee (PRAC), *Pandemic Unemployment Insurance: How much has been paid to fraudsters?* (Accessed on February 1, 2023, at https://www.pandemicoversight.gov/spotlight/unemployment-insurance-fraud). The CARES Act established the PRAC within the Council of Inspectors General on Integrity and Efficiency, the oversight and coordination body for the Inspector general community. Pub. L. No. 116-136, § 15010(b), 134 Stat. 281, 534 (2000). The PRAC is composed of 21 inspectors general.

While DOL Faced Shortcomings in Addressing Pandemic Fraud Risks, It Has Taken Some Steps to Address Such Risks but Has Not Implemented an Antifraud Strategy

DOL Faced Shortcomings in Addressing Pandemic Fraud Risks

Because of shortcomings in managing risk strategically, including lack of appropriate internal controls, DOL and the states were not adequately prepared to handle UI fraud risks when the pandemic began. In July 2015, we issued A Framework for Managing Fraud Risks in Federal Programs (Fraud Risk Framework).[26] This framework provides a comprehensive set of key components and leading practices to help agency managers combat fraud in a strategic, risk-based way. The Fraud Reduction and Data Analytics Act of 2015 (FRDAA) required the Office of Management and Budget (OMB) to establish guidelines for federal agencies to create controls to identify and assess fraud risks and to design and implement anti-fraud control activities.[27] The act further required OMB to incorporate the leading practices from the Fraud Risk Framework in the guidelines.[28] In its 2016 Circular No. A-123 guidelines, OMB directed agencies to adhere to the Fraud Risk Framework's leading

[26]GAO, *A Framework for Managing Fraud Risks in Federal Programs*, GAO-15-593SP (Washington, D.C.: July 28, 2015).

[27]Pub. L. No. 114-186, 130 Stat. 546 (2016).

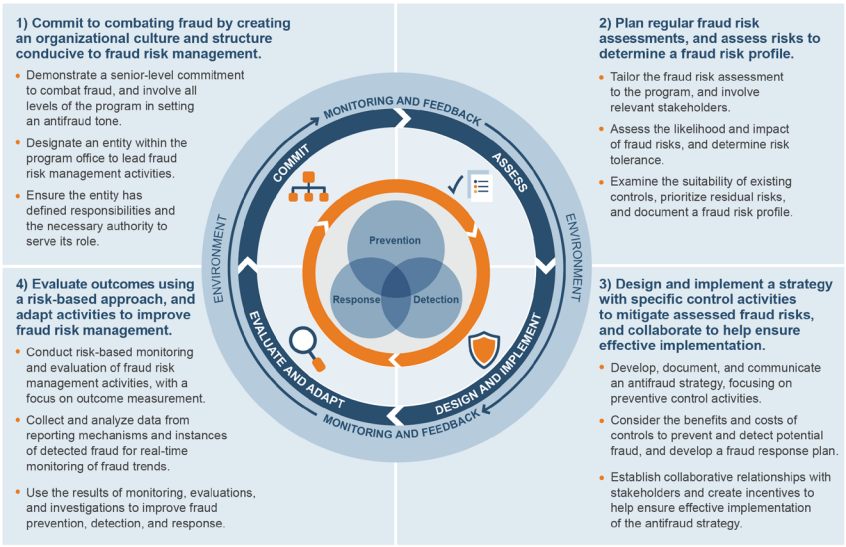
[28]The Payment Integrity Information Act of 2019 requires these guidelines to remain in effect, subject to modification by OMB as necessary and in consultation with GAO. Pub. L. No. 116-117, § 2a, 134 Stat. 113, 131-132 (2020), codified at 31 U.S.C. § 3357.

practices as part of their efforts to effectively design, implement, and operate an internal control system that addresses fraud risks.[29]

As shown in figure 3, the Fraud Risk Framework contains four components: (1) commit, (2) assess, (3) design and implement, and (4) evaluate and adapt. Within the four components, there are overarching concepts and leading practices.

[29]Office of Management and Budget, *Management's Responsibility for Enterprise Risk Management and Internal Control*, OMB Circular No. A-123 (Washington, D.C. July 15, 2016). In October 2022, OMB issued a Controller Alert, which reminded agencies that they must establish financial and administrative controls to identify and assess fraud risks. In addition, OMB reminded agencies that they should adhere to the leading practices in GAO's Fraud Risk Management Framework as part of their efforts to effectively design, implement, and operate an internal control system that addresses fraud risks. OMB, CA-23-03, *Establishing Financial and Administrative Controls to Identify and Assess Fraud Risk* (Oct. 17, 2022).

Figure 3: The Four Components of the Fraud Risk Framework and Selected Leading Practices



Source: GAO. | GAO-23-106586

In response to a 2018 GAO survey of federal agencies regarding their implementation of the FRDAA, DOL stated that it was moderately familiar with the Fraud Risk Framework and characterized its planning and implementation efforts as having started but not mature.[30] Had DOL, in conjunction with the states, already been strategically managing fraud

[30]GAO, *Fraud Risk Management: OMB Should Improve Guidelines and Working-Group Efforts to Support Agencies' Implementation of the Fraud Reduction and Data Analytics Act,* GAO-19-34 (Washington, D.C.: Dec. 4, 2018).

risks, it would have been better positioned to identify and respond to the heightened risks that emerged during the pandemic.

In October 2021, in applying selected leading practices to DOL, we found that the agency had not implemented key aspects of the Fraud Risk Framework.[31] Specifically, DOL had not clearly assigned defined responsibilities to a dedicated entity for designing and overseeing fraud risk management activities in a strategic manner. DOL also had not comprehensively assessed UI fraud risks in alignment with leading practices identified in the Fraud Risk Framework. Such assessments would provide reasonable assurance that DOL has identified the most significant fraud risks for the regular UI program that will exist after the pandemic.

The DOL OIG has similarly reported significant concerns about the ability of the agency and the state workforce agencies to deploy UI and other program benefits expeditiously while ensuring adequate oversight due to staffing and system resource constraints.[32] The DOL OIG further noted that because many states were not prepared, many internal fraud controls were not initially implemented when the pandemic began.

DOL Has Taken Some Steps to Address UI Fraud Risks

DOL has taken some steps during the pandemic to address fraud risks in the UI system. Specifically, DOL has provided state workforce agencies with fraud-related guidance, tools, and funding.

Guidance: DOL provided states with advisory documents containing fraud-related information on various topics covering fraud prevention, detection, and response.

Tools: DOL provided funding for the UI Integrity Center, operated by the National Association of State Workforce Agencies. The UI Integrity Center supports state workforce agencies in adopting and implementing strategies to address fraud in UI programs at no cost to states.

[31]GAO-22-105051.

[32]U.S. Department of Labor Office of Inspector General, Testimony before the U.S. Senate Committee on Homeland Security and Governmental Affairs, *Pandemic Response and Accountability: Reducing Fraud and Expanding Access to COVID-19 Relief through Effective Oversight*, Number 19-22-003-03-315, March 17, 2022.

Funding: DOL provided grant opportunities to states, totaling up to about $865 million, to improve UI systems and processes, including addressing fraud prevention and detection.

Further, DOL continues to invest in identity verification resources. For example, as we previously reported, DOL provided funding to procure and implement an identity verification service, which became available to states in July 2020, according to DOL officials.[33] This service provides access to new datasets to conduct enhanced UI claimant identity verification, which can help prevent payment of fraudulent claims based on false identities. It also contains a cross-match with the Social Security Administration Death Master File to identify the use of a deceased person's Social Security number when filing for benefits. As of October 2022, there were 41 states using the identity verification service, according to DOL officials.

DOL has also collaborated with its OIG to share information on emerging UI fraud issues and coordinate fraud prevention and recovery efforts. According to DOL officials, they meet regularly to discuss emerging UI fraud issues, streamline communication with states, and coordinate fraud prevention and recovery efforts.

DOL Has Not Implemented an Antifraud Strategy

While DOL has taken steps to address UI fraud risks, its approach has not been strategically organized and targeted at prioritized risks. Specifically, we found that it has not designed and implemented an antifraud strategy to guide its actions based on a fraud risk profile in alignment with leading practices in our Fraud Risk Framework.[34] We therefore recommended that DOL develop and implement such a strategy that is consistent with leading practices from GAO's Fraud Risk Framework. As of January 2023, this recommendation remains open.

In October 2021, we recommended that DOL assess fraud risks in alignment with the leading practices outlined in the Fraud Risk Framework.[35] Specifically, we recommended that DOL

[33]GAO-23-105523.

[34]GAO-23-105523.

[35]GAO-22-105051.

1. identify inherent fraud risks facing the UI program,[36]
2. assess the likelihood and impact of inherent fraud risks facing the program,
3. determine fraud risk tolerance for the program,[37]
4. examine the suitability of existing fraud controls in the program and prioritize residual fraud risks, and
5. document the fraud risk profile for the program.

We also recommended in October 2021 that DOL designate a dedicated entity to assess fraud risks to the UI program and document its responsibilities for managing this process. This entity should have, as discussed in the Fraud Risk Framework's first component, clearly defined and documented responsibilities and authority for managing fraud risk assessment and facilitating communication among stakeholders regarding fraud-related issues. In August 2022, DOL officials told us that they are addressing this recommendation.

DOL officials further told us that DOL's Office of Unemployment Insurance in collaboration with DOL's Office of the Chief Financial Officer has begun implementing all of our fraud risk management-related recommendations. These officials further told us that DOL's Office of Unemployment Insurance is currently developing its fraud risk management process, including further identifying and documenting inherent risks, impacts, fraud likelihood, and fraud tolerance in the UI system. In addition, DOL officials stated they are in the process of developing a fraud risk profile for the UI program, in alignment with the leading practices in our Fraud Risk Framework. The UI antifraud strategy we recommended would then be based on the fraud risk profile.

However, DOL's work responding to our recommendations remains incomplete and they remain open. Until DOL completes these efforts expeditiously, it cannot ensure that it is effectively addressing fraud risks, some of which may persist in the regular UI program beyond the pandemic.

[36]According to federal internal control standards, inherent risk is the risk to an entity prior to considering management's response to the risk (see GAO, *Standards for Internal Control in the Federal Government*, GAO-14-704G (Washington, D.C.: Sept. 2014)).

[37]According to federal internal control standards, risk tolerance is the acceptable level of variation in performance relative to the achievement of objectives (see GAO-14-704G).

DOL Faces Continued UI Improper Payment Problems

The expediting of COVID-19 relief funding exacerbated a continued underlying problem with improper payments in the federal government, including UI, which predated the pandemic. In each of the three years prior to the pandemic, the estimated improper payment rate for UI was above 10 percent.

- In fiscal year 2017, estimated improper payments for UI totaled about $4.1 billion (estimated improper payment rate of 12.5 percent).
- In fiscal year 2018, estimated improper payments totaled about $3.7 billion (estimated improper payment rate of 13.1 percent).[38]
- For fiscal year 2019, estimated improper payments totaled about $2.9 billion (estimated improper payment rate of 10.6 percent).

Following the inception of the pandemic, DOL reported an increase in the estimated improper payment amounts from about $8.0 billion (9.2 percent estimated improper payment rate) for fiscal year 2020 to about $78.1 billion (18.9 percent estimated improper payment rate) for fiscal year 2021.[39] For fiscal year 2022, DOL reported estimated improper payments of about $18.9 billion (22.2 percent estimated improper payment rate). The decline in the fiscal year 2022 amount was due to a significant decrease in UI-related outlays (about $85 billion) from the fiscal year 2021 level (about $413 billion) as the pandemic UI programs expired.[40]

We have made a number of government wide recommendations to address improper payment and fraud risks. In our March 2022 testimony before the Senate Committee on Homeland Security and Governmental Affairs, we identified 10 actions that Congress could take to strengthen internal controls and financial and fraud risk management practices

[38]The improper payment amounts and corresponding rates for fiscal years 2017 and 2018 reflect combined improper payment and unknown payments.

[39]The president declared the pandemic an emergency in March 2020.

[40]DOL received a modified opinion for its financial statements for fiscal years 2021 and 2022. The modified opinion was made in part because the auditors were unable to obtain sufficient appropriate audit evidence about the completeness of the benefit overpayment receivable for COVID-19 related UI benefits. DOL's auditor made three recommendations in its fiscal year 2022 auditor's report to address the issues related to the modified opinion.

across the government.[41] These matters for congressional consideration remain open. We continue to believe that such actions will increase accountability and transparency in federal spending in both emergency and nonemergency periods. Appendix II provides a list of these matters, while appendix III lists the 19 open recommendations to DOL to improve the UI system.

UI System Added to GAO's High Risk Program

In June 2022, we added the UI system to our High Risk Program because it is in need of transformation.[42] The system's administrative challenges pose significant risks to service delivery. Long-standing challenges with UI administration and outdated IT systems have affected states' ability to meet the needs of unemployed workers, especially during economic downturns. Such challenges have also contributed to impaired service, declining access, and disparities in benefit distribution. Further, in terms of program integrity, the risk of improper payments, including from fraud, greatly increased during the pandemic and as new UI programs were created, exposing the UI system to significant financial losses.

In our June 2022 report, we recommended that DOL develop and implement a plan for transforming UI that meets GAO's high-risk criteria for transformations. DOL agreed with the recommendation and described actions it is taking to address it, which include creating an UI modernization office. However, many longstanding challenges remain unaddressed that will likely heighten the multiple risks the UI program faces, including not meeting fundamental expectations of serving workers in a timely way and the broader economy and ensuring the responsible stewardship of government funds.

GAO has five criteria for evaluating a program's progress toward removal from the High-Risk List:

1. a demonstrated strong commitment and leadership support to address the risk(s),
2. the capacity (i.e., the people and other resources) to resolve the risks,

[41]GAO, *Emergency Relief Funds: Significant Improvements Are Needed to Ensure Transparency and Accountability for COVID-19 and Beyond*, GAO-22-105715 (Washington, D.C.: Mar. 17, 2022). These matters were reiterated in a February 2023 testimony before the House Committee on Oversight and Accountability. GAO, *Emergency Relief Funds: Significant Improvements Are Needed to Address Fraud and Improper Payments*, GAO-23-106556 (Washington, D.C.: Feb. 1, 2023).

[42]GAO-22-105162.

3. a corrective action plan that defines root causes, identifies solutions, and provides for substantially completing corrective measures near term, including steps necessary to implement solutions we recommend,
4. a program instituted to monitor and independently validate the effectiveness and sustainability of corrective measures, and
5. the ability to demonstrate progress in implementing corrective measures.

We will be providing periodic reports to Congress on DOL's progress in meeting these criteria.

Chairman Smith, Ranking Member Neal, and Members of the Committee, this concludes my prepared statement. I would be pleased to respond to any questions.

GAO Contacts

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Contact information for our Office of Public Affairs may be found on the last page of this statement.

Appendix I: Related GAO Products

Emergency Relief Funds: Significant Improvements Are Needed to Address Fraud and Improper Payments. GAO-23-106556. Washington, D.C.: February 1, 2023.

Unemployment Insurance: Data Indicate Substantial Levels of Fraud during the Pandemic; DOL Should Implement an Antifraud Strategy. GAO-23-105523. Washington, D.C.: December 22, 2022.

Unemployment Insurance: Opportunities to Address Long-Standing Challenges and Risks. GAO-106159. Washington, D.C.: September 21, 2022.

Unemployment Insurance: Transformation Needed to Address Program Design, Infrastructure, and Integrity Risks. GAO-22-105162. Washington, D.C.: June 7, 2022.

Pandemic Unemployment Assistance: Federal Program Supported Contingent Workers amid Historic Demand, but DOL Should Examine Racial Disparities in Benefit Receipt. GAO-22-104438. Washington, D.C.: June 7, 2022.

Unemployment Insurance: Pandemic Programs Posed Challenges, and DOL Could Better Address Customer Service and Emergency Planning. GAO-22-104251. Washington, D.C.: June 7, 2022.

COVID-19: Current and Future Federal Preparedness Requires Fixes to Improve Health Data and Address Improper Payments. GAO-22-105397. Washington, D.C.: April 27, 2022.

Emergency Relief Funds: Significant Improvements Are Needed to Ensure Transparency and Accountability for COVID-19 and Beyond. GAO-22-105715. Washington, D.C.: March 17, 2022.

COVID-19: Significant Improvements Are Needed for Overseeing Relief Funds and Leading Responses to Public Health Emergencies. GAO-22-105291. Washington, D.C.: January 27, 2022.

COVID-19: Additional Actions Needed to Improve Accountability and Program Effectiveness of Federal Response. GAO-22-105051. Washington, D.C.: October 27, 2021.

COVID-19: Continued Attention Needed to Enhance Federal Preparedness, Response, Service Delivery, and Program Integrity. GAO-21-551. Washington, D.C.: July 19, 2021.

Management Report: Preliminary Information on Potential Racial and Ethnic Disparities in the Receipt of Unemployment Insurance Benefits during the COVID-19 Pandemic. GAO-21-599R. Washington, D.C.: June 17, 2021.

COVID-19: Sustained Federal Action Is Crucial as Pandemic Enters Its Second Year. GAO-21-387. Washington, D.C.: March 31, 2021.

COVID-19: Critical Vaccine Distribution, Supply Chain, Program Integrity, and Other Challenges Require Focused Federal Attention. GAO-21-265. Washington, D.C.: January 28, 2021.

COVID-19: Urgent Actions Needed to Better Ensure an Effective Federal Response. GAO-21-191. Washington, D.C.: November 30, 2020.

COVID-19: Federal Efforts Could Be Strengthened by Timely and Concerted Actions. GAO-20-701. Washington, D.C.: September 21, 2020.

COVID-19: Opportunities to Improve Federal Response and Recovery Efforts. GAO-20-625. Washington, D.C.: June 25, 2020.

Unemployment Insurance: Actions Needed to Ensure Consistent Reporting of Overpayments and Claimants' Compliance with Work Search Requirements. GAO-18-486. Washington, D.C.: August 22, 2018.

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Unemployment Insurance: States' Reductions in Maximum Benefit Durations Have Implications for Federal Costs. GAO-15-281. Washington, D.C.: April 22, 2015.

Federal Employees' Compensation Act: Case Examples Illustrate Vulnerabilities That Could Result in Improper Payments or Overlapping Benefits. GAO-13-386. Washington, D.C.: April 3, 2013.

Information Technology: Department of Labor Could Further Facilitate Modernization of States' Unemployment Insurance Systems. GAO-12-957. Washington, D.C.: September 26, 2012.

Income Security: Overlapping Disability and Unemployment Benefits Should Be Evaluated for Potential Savings. GAO-12-764. Washington D.C.: July 31, 2012.

Appendix II: Matters for Congressional Consideration

In a March 2022 testimony before the Senate Committee on Homeland Security and Governmental Affairs, GAO made 10 matters for congressional consideration.[1]

1. Congress should pass legislation requiring the Office of Management and Budget (OMB) to provide guidance for agencies to develop plans for internal control that would then immediately be ready for use in, or adaptation for, future emergencies or crises and requiring agencies to report these internal control plans to OMB and Congress.
2. Congress should amend the Payment Integrity Information Act of 2019 to designate all new federal programs making more than $100 million in payments in any one fiscal year as "susceptible to significant improper payments" for their initial years of operation.
3. Congress should amend the Payment Integrity Information Act of 2019 to reinstate the requirement that agencies report on their antifraud controls and fraud risk management efforts in their annual financial reports.
4. Congress should establish a permanent analytics center of excellence to aid the oversight community in identifying improper payments and fraud.
5. Congress should clarify that (1) chief financial officers (CFO) at CFO Act agencies have oversight responsibility for internal controls over financial reporting and key financial management information that includes spending data and improper payment information; and (2) executive agency internal control assessment, reporting, and audit requirements for key financial management information.
6. Congress should require agency CFOs to (1) submit a statement in agencies' annual financial reports certifying the reliability of improper payments risk assessments and the validity of improper payment estimates, and describing the actions of the CFO to monitor the development and implementation of any corrective action plans; and (2) approve any methodology that is not designed to produce a statistically valid estimate.

[1]GAO, *Emergency Relief Funds: Significant Improvements Are Needed to Ensure Transparency and Accountability for COVID-19 and Beyond*, GAO-22-105715 (Washington, D.C.: Mar. 17, 2022). These matters were reiterated in a February 2023 testimony before the House Committee on Oversight and Accountability. GAO, *Emergency Relief Funds: Significant Improvements Are Needed to Address Fraud and Improper Payments*, GAO-23-106556 (Washington, D.C.: Feb. 1, 2023).

7. Congress should consider legislation to require improper payment information required to be reported under the Payment Integrity Information Act of 2019 to be included in agencies' annual financial reports.
8. Congress should amend the DATA Act to extend the previous requirement for agency inspectors general to review the completeness, timeliness, quality, and accuracy of their respective agency data submissions on a periodic basis.
9. Congress should amend the DATA Act to clarify the responsibilities and authorities of OMB and Department of the Treasury for ensuring the quality of data available on USAspending.gov.
10. Congress should amend the Social Security Act to accelerate and make permanent the requirement for the Social Security Administration to share its full death data with the Department of the Treasury's Do Not Pay working system.

Appendix III: Open Unemployment Insurance-Related Recommendations to the Department of Labor

Table 1 lists GAO's 19 open recommendations to the Department of Labor to improve the Unemployment Insurance system. The first five recommendations listed warrant priority attention from heads of key departments or agencies because implementation could:

- save large amounts of money,
- improve congressional and executive branch decision making on major issues,
- minimize mismanagement, fraud, and abuse, or
- ensure that programs comply with laws and funds are legally spent.

Table 1: GAO's 19 Open Recommendations to the Department of Labor (DOL) to Improve the Unemployment Insurance (UI) System, Open as of January 25, 2023

No.	Report Number, Date	Recommendation to DOL
1	GAO-22-104438, June 7, 2022	**(priority)** The Secretary of Labor should ensure the Office of Unemployment Insurance examines and publicly reports on the extent and potential causes of racial and ethnic inequities in the receipt of Pandemic Unemployment Assistance (PUA) benefits, as part of the agency's efforts to modernize UI and improve equity in the system. The report should also address whether there is a need to examine racial, ethnic, or other inequities in regular UI benefit receipt, based on the PUA findings.
2	GAO-22-105051, October 27, 2021	**(priority)** The Secretary of Labor should examine the suitability of existing fraud controls in the UI program and prioritize residual fraud risks.
3	GAO-21-191, November 30, 2020	**(priority)** The Secretary of Labor should ensure the Office of Unemployment Insurance pursues options to report the actual number of distinct individuals claiming benefits, such as by collecting these already available data from states, starting from January 2020 onward.
4	GAO-18-486, August 22, 2018	**(priority)** The Assistant Secretary of DOL's Employment and Training Administration should provide states with information about its determination that the use of state formal warning policies is no longer permissible under federal law.
5	GAO-18-486, August 22, 2018	**(priority)** The Assistant Secretary of DOL's Employment and Training Administration should clarify information on work search verification requirements in its revised Benefit Accuracy Measurement procedures. The revised procedures should include an explanation of what DOL considers to be sufficient verification of claimants' work search activities.
6	GAO-23-105523, December 22, 2022	The Secretary of Labor should design and implement an antifraud strategy for UI based on a fraud risk profile consistent with leading practices as provided in the Fraud Risk Framework.
7	GAO-22-105162, June 7, 2022	The Secretary of Labor should develop and execute a transformation plan that meets GAO's high risk criteria for transformation; the plan should outline coordinated and sustained actions to address known issues related to providing effective service and mitigating financial risk, including ways to demonstrate improvements. Planned actions may include addressing audit recommendations, and determining whether legislative changes are needed, as appropriate. Planned actions may also include achieving quantifiable results in reducing improper payment rates, including those related to fraud; improving efficiency in claims processing and restoring pre-pandemic payment timeliness levels; better reaching current worker populations; and enhancing equity in benefit distribution.

No.	Report Number, Date	Recommendation to DOL
8	GAO-22-104438, June 7, 2022	The Secretary of Labor should study and advise the Congress and other policymakers on the costs, benefits, and risks of various options to systematically support self-employed and contingent workers during periods of involuntary unemployment outside of declared disasters, including considering options' feasibility and approach to fraud prevention.
9	GAO-22-104251, June 7, 2022	The Secretary of Labor should ensure the Office of Unemployment Insurance assesses lessons learned from the pandemic to inform its future disaster responses efforts and support the Congress on ways to address future emergencies.
10	GAO-22-105051, October 27, 2021	The Secretary of Labor should designate a dedicated entity and document its responsibilities for managing the process of assessing fraud risks to the UI program, consistent with leading practices as provided in our Fraud Risk Framework. This entity should have, among other things, clearly defined and documented responsibilities and authority for managing fraud risk assessments and for facilitating communication among stakeholders regarding fraud-related issues.
11	GAO-22-105051, October 27, 2021	The Secretary of Labor should identify inherent fraud risks facing the UI program.
12	GAO-22-105051, October 27, 2021	The Secretary of Labor should assess the likelihood and impact of inherent fraud risks facing the UI program.
13	GAO-22-105051, October 27, 2021	The Secretary of Labor should determine fraud risk tolerance for the UI program.
14	GAO-22-105051, October 27, 2021	The Secretary of Labor should document the fraud risk profile for the UI program.
15	GAO-21-387, March 31, 2021	The Secretary of Labor should ensure the Office of Unemployment Insurance collects data from states on the amount of overpayments waived in the PUA program, similar to the regular UI program.*
16	GAO-21-265, January 28, 2021	The Secretary of Labor should ensure the Office of Unemployment Insurance collects data from states on the amount of overpayments recovered in the PUA program, similar to the regular UI program.*
17	GAO-18-633, September 4, 2018	The Secretary of Labor should update agency guidelines to ensure that it clearly informs states about the range of allowable profiling approaches.[a]
18	GAO-18-486, August 22, 2018	The Assistant Secretary of DOL's Employment and Training Administration should monitor states' efforts to discontinue the use of formal warning policies.
19	GAO-18-486, August 22, 2018	The Assistant Secretary of DOL's Employment and Training Administration should monitor states' compliance with the clarified work search verification requirements.

*This recommendation is partially implemented.

Source: GAO. | GAO-23-106586

[a]Since 1994, states have been required by law to develop and use profiling systems to identify UI claimants who are likely to exhaust their benefits, and to refer such claimants to reemployment services (Pub. L. No. 103-152, § 4, 107 Stat. 1516, 1517 (1993), codified at 42 U.S.C. § 503(j)). These claimants must generally participate in reemployment services as a condition of eligibility for UI benefits. In our September 2018 report, we found that state officials differed in their awareness of available options for developing profiling systems.

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Chairman SMITH. Thank you, sir. Thank you, sir.

Mr. Turner, you are now recognized.

STATEMENT OF LARRY TURNER, INSPECTOR GENERAL, DEPARTMENT OF LABOR, OFFICE OF THE INSPECTOR GENERAL (DOL–OIG)

Mr. TURNER. Thank you. Good morning, Chairman Smith, Ranking Member Neal, and distinguished members of the committee. Thank you for the opportunity to testify today.

Although the OIG oversees all DoL programs, my testimony today focuses on our oversight of the unemployment insurance program. The views expressed in my testimony are based on the independent work of the OIG, and are not intended to reflect DoL's position.

Mr. Chairman, the OIG remains committed to assisting DoL and Congress in improving the efficiency and integrity of the UI program. In our view, strengthening the program to prevent and detect fraud are key objectives to ensuring that unemployed workers quickly receive needed benefits, while safeguarding taxpayer dollars.

For many years, the OIG has highlighted significant concerns with DoL and states' ability to deploy UI benefits expeditiously and efficiently, while ensuring integrity and adequate oversight. The pandemic compounded these challenges, creating the perfect storm.

As the OIG reported, states were not prepared to process the historic volume of claims, resulting in significant delays. And this reliance on claimant self-certification rendered the PUA program extremely susceptible to fraud, and the unprecedented infusion of Federal funds gave fraudsters a high-value target to exploit. That, combined with the ease of identity theft and system weaknesses previously identified by the OIG, allowed criminals to defraud the program.

DoL recently reported an annual improper payment rate of 21.52 percent for fiscal year 2022. When applied to the approximate 888 billion in benefits paid during the pandemic, we estimate that at least 191 billion in pandemic UI payments could have been paid improperly, with a significant portion attributable to fraud.

Indeed, following the passage of the CARES Act, fraud against the UI program exploded. Since April the 1st, 2020, the OIG opened more than 198,000 UI investigative matters. This represents 1,000 times the increase in the volume of our UI work.

The OIG took immediate action to respond to this crisis. Less than a month after the CARES Act was passed, we issued an advisory report identifying initial areas of concern for DoL and the states to consider. Since then, we have released several additional reports.

We also hired additional investigators, strengthened our data analytics program, and worked with DoJ to create a National UI Fraud Task Force.

We leveraged our CIGIE and PRAC resources, implemented outreach and education with the states, and collaborated with the PRAC, DoJ, and the Secret Service to recover fraudulent funds.

We also engaged with international law enforcement partners to pursue transnational organized criminal groups.

The OIG efforts have resulted in more than 700 search warrants executed, and 1,200 individuals charged with UI fraud. These charges have resulted in more than 500 convictions, 11,000 months of incarceration, and $905 million in investigative results.

We also identified $45.6 billion in potentially fraudulent UI benefits paid in 4 high-risk areas.

In response to our recommendations, DoL instituted efforts to improve the UI program. However, several OIG recommendations remain unimplemented regarding OIG's access to UI data, state staffing and IT modernization, guidance and assistance to states, and controls for improper payments.

Mr. Chairman, I want to take a moment to highlight three challenges impacting our work.

First is access to UI data. For many years, the OIG has requested access to data proactively to monitor the program. Given the magnitude of the issues we saw at the start of the pandemic, we took the unprecedented step of issuing IG subpoenas to all 50 states, territories, and jurisdictions. The data allowed the OIG to identify billions in potential fraud. However, the subpoena process took months, and delayed our ability to detect fraud.

Second, the statute of limitations associated with the pandemic UI fraud will start to expire in early 2025. UI crimes often include complex schemes that require significant resources and time to investigate. As such, we recommended last year that Congress extend the statute of limitations from 5 to 10 years.

Third, our work is being impacted by resource limitations. The OIG received $38.5 million to oversee the close to 1 trillion in expanded programs. However, most of the funding will be fully expended by fiscal year 2024. Combined with more than expected fiscal year 2023 appropriations, our funding is not sufficient to maintain the level of oversight deployed during the pandemic.

Mr. Chairman, thank you for your opportunity to testify about our overseeing the UI program.

I also want to thank the dedicated OIG employees who worked tirelessly to accomplish the oversight mission.

I look forward to answering any questions you or members of the committee may have. Thank you.

[The statement of Mr. Turner follows:]

U.S. Department of Labor

Office of Inspector General

Congressional Testimony

Testimony before the
U.S. House of Representatives Committee on Ways and Means

Hearing Title:
"The Greatest Theft of American Tax Dollars: Unchecked Unemployment Fraud"

Testimony of Larry D. Turner
Inspector General
Office of Inspector General
U.S. Department of Labor

Number 19-23-003-03-315

February 8, 2023

Good morning, Chairman Smith, Ranking Member Neal, and distinguished members of the Committee. Thank you for the opportunity to testify on the important work of the U.S. Department of Labor (DOL or Department) Office of Inspector General (OIG). Although the OIG is responsible for overseeing all DOL programs and operations, I will focus my testimony today on the OIG's oversight of the unemployment insurance (UI) program during the COVID-19 pandemic.

The OIG has remained committed to meeting the challenges created by the COVID-19 pandemic and to assisting DOL and Congress in improving the efficiency and integrity of the UI program. As my testimony will show, strengthening the UI program to prevent fraud before it occurs and to detect it when it does are key objectives to ensure that unemployed workers expeditiously receive much needed benefits while safeguarding tax dollars directed toward that goal.

Unemployment insurance is generally administered by states with oversight from DOL's Employment and Training Administration (ETA). The OIG is an independent agency within DOL that serves the American people, DOL, and Congress by providing objective oversight of Departmental programs, including the UI program. The views expressed herein are based on the independent findings and recommendations of the OIG's work and are not intended to reflect DOL positions.

Overview of the Unemployment Insurance Program

Enacted more than 80 years ago, the UI program is the Department's largest income-maintenance program. A joint federal-state program, unemployment insurance is the first economic line of defense against the collective impact of unemployment and acts as a safety-net for individuals who lose their jobs through no fault of their own. The UI program requires states to make weekly benefit payments in a timely manner, providing needed assistance to unemployed workers while ensuring claimants meet eligibility requirements. It is equally important that the program has sufficient controls in place to quickly determine that benefits are or were paid to the right person in the correct amount. Each state workforce agency.[1] (SWA or state):

- administers a separate UI program under its jurisdiction's laws, but follows uniform guidelines established by federal law;
- establishes requirements for eligibility, benefit amounts, and the length of time that benefits can be paid; and

[1] This testimony uses "state" or "SWA" to refer to the administrative body that administers the UI program within the state, district, or territory. For the 50 states, as well as the U.S. Virgin Islands, Puerto Rico, and the District of Columbia, that administrative body is a SWA. There are, therefore, 53 SWAs. The Coronavirus Aid, Relief, and Economic Security Act also provided certain UI benefits to American Samoa, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, Guam, the Marshall Islands, and the Republic of Palau, provided the territory signs an agreement with the Department.

- manages the personnel and system resources to administer their respective programs.

In normal circumstances, UI benefits are generally funded by state employer taxes with administrative costs funded by the federal government. Extensions and expansions of coverage and benefits, such as those provided by the Coronavirus Aid, Relief, and Economic Security (CARES) Act and subsequent legislation, are also normally funded by the federal government.

ETA is the federal agency responsible for providing program direction and oversight. The OIG conducts independent oversight of the UI program through audits to strengthen the integrity and efficiency of the program and through criminal investigations to detect and deter large-scale fraud. The OIG's federal criminal investigations are time- and resource-intensive and one of the last lines of defense in safeguarding the UI program from fraud.

OIG Significant Concerns

The OIG has repeatedly reported significant concerns with DOL and states' ability to deploy program benefits expeditiously and efficiently while ensuring integrity and adequate oversight. We have been and remain particularly concerned about deployment of UI benefits in response to emergencies including natural disasters and economic downturns. The OIG has reiterated these concerns regarding the economic downturn created by the pandemic and the hundreds of billions of dollars allocated to the UI program.

Less than a month after the CARES Act passed, we published an advisory report[2] outlining areas of concern that ETA and the states should consider as they implemented the CARES Act UI provisions. Our identification of these areas represents years of work relating to DOL's UI program, including the response to past disasters. One of these areas was state preparedness: specifically, the issues of staffing and system capabilities.

Deploying Benefits Expeditiously and Efficiently

Rapid deployment of CARES Act funding was critical in helping workers in need. As acknowledged by the OIG, staff at ETA and states struggled during the COVID-19 pandemic as SWAs worked to ensure timely and accurate UI benefits in a time of national emergency. Anticipating and addressing the increased risk that came with the expanded funding was also vital to meeting the intent of the CARES Act. As the OIG's prior audit work has shown, quickly deploying funds can result in shortcomings in the

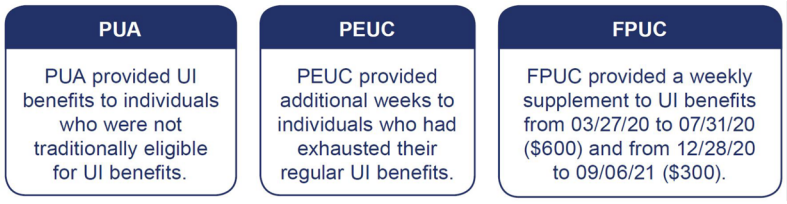
[2] Advisory Report, CARES ACT: Initial Areas of Concern Regarding Implementation of Unemployment Insurance Provisions, Report No. 19-20-001-03-315 (April 21, 2020), available at: https://www.oig.dol.gov/public/reports/oa/2020/19-20-001-03-315.pdf

effective and efficient implementation of stimulus programs. For example, a 2011 audit report[3] found states took over a year to spend most of the American Reinvestment and Recovery Act of 2009 (Recovery Act) funding available for emergency staffing and at least 40 percent of funding for this purpose was unspent after 15 months.

In addition, a separate audit on the Recovery Act[4] found $1.3 billion of the $7 billion that DOL provided to states for UI modernization, including information technology (IT) modernization, would likely not have been spent before the period of availability expired. To access these funds, states had to meet certain modernization criteria; once accessed, the funds could be spent for several purposes including to modernize IT systems. Of the funds spent from the $7 billion, states did not always take advantage of the opportunity to modernize their IT systems.

To implement the new UI programs authorized by the CARES Act, states needed sufficient staffing and system resources to manage the extraordinary increases in the number of claims and payments. Our pandemic audit work has confirmed that ETA and states continued to face challenges in these areas as they endeavored to implement the new temporary UI programs, including Pandemic Unemployment Assistance (PUA), Pandemic Emergency Unemployment Compensation (PEUC), and Federal Pandemic Unemployment Compensation (FPUC) (see Figure 1).

Figure 1: Three Key Pandemic-Related UI Programs



Source: CARES Act and related extensions

We also issued audit reports that advised ETA to establish methods to detect and recover improper payments, including fraudulent payments, and reported on the pandemic program that posed the greatest risk to the UI system: PUA. PUA's expanded coverage, for a population of claimants who were traditionally ineligible to receive UI

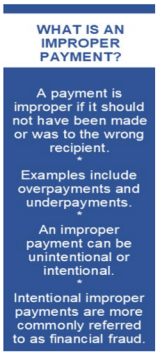
[3] Recovery Act: DOL Could Have Better Monitored the Use of Re-employment Services Funds to Adhere to Standards for Transparency and Accountability, Report No. 18-11-005-03-315 (March 31, 2011), available at: https://www.oig.dol.gov/public/reports/oa/2011/18-11-005-03-315.pdf
[4] Recovery Act: More Than $1.3 Billion in Unemployment Insurance Modernization Incentive Payments Are Unlikely to Be Claimed by States, Report No. 18-10-012-03-315 (September 30, 2010), available at: https://www.oig.dol.gov/public/reports/oa/2010/18-10-012-03-315.pdf

benefits,[5] presented significant challenges to states as they designed and implemented processes to determine initial and continued program eligibility. Further, we found the risk of improper payments including fraud was even higher under PUA because claimants could self-certify their eligibility for benefits.

Our subsequent reports identified continued programmatic weaknesses that led to workers unemployed through no fault of their own suffering lengthy delays in receiving benefits. For example, the OIG had audited the Disaster Unemployment Assistance (DUA) program in 2020 and found the Department had not established adequate controls to ensure benefits were paid timely..[6] States also had difficulty ensuring CARES Act programs were implemented promptly. For the PUA, PEUC, and FPUC programs, we identified that it took, on average, 38 days for the first payment to be made after the CARES Act passed. Also, we identified delays in the first payments for two other pandemic UI programs: it took 25 days for the FPUC program and 50 days for the PEUC program..[7]

We also found that—from April 1, 2020, to March 31, 2021—only 5 of the 53 SWAs (less than 10 percent) were able to timely pay benefits, including the FPUC supplement, to regular UI claimants. As a result, during the year following the passage of the CARES Act, more than six million Americans waited a month or more for CARES Act UI benefits. Furthermore, states are still challenged in paying claimants timely. For the month of December 2022, only 22 percent of states were paying regular UI claimants timely versus 75 percent before the pandemic started.

History of Improper Payments, including Fraud



For more than 20 years, the OIG has reported on the Department's challenges to measure, report, and reduce improper payments in the UI program, which has experienced some of the highest improper payment rates across the federal government. The reported improper payment rate estimate for the regular UI program has been above 10 percent for 15 of the last 19 years. In the last 2 years, ETA has estimated an improper payment rate of 18.71 percent and 21.52 percent, respectively.

The UI program requires states to make weekly benefit payments while ensuring claimants meet eligibility requirements. A state may

[5] The new PUA program extended unemployment benefits to self-employed, independent contractors, those with limited work history, and other individuals not traditionally eligible for unemployment benefits who were unable to work as a direct result of COVID-19.
[6] ETA Should Do More to Assist Vulnerable States Prepare for Disaster Unemployment Assistance Program Implementation, Report No. 04-20-002-03-315 (September 29, 2020), available at: https://www.oig.dol.gov/public/reports/oa/2020/04-20-002-03-315.pdf
[7] Also, the 12 states we selected for in-depth analysis were generally unable to demonstrate they met the payment promptness standard ETA established for regular UI payments, which is to pay 87 percent of claimants within 14 or 21 days.

determine a payment is improper after a claimant receives benefits based on new information that was unavailable when the SWA approved the benefit payment or as a result of the requirement that claimants be provided with due process prior to stopping payment of benefits. The leading causes of improper payments have historically been:

- Claimants Do Not Meet Work Search Requirements[8] – Claimants who fail to demonstrate they meet state requirements for work search;
- Benefit Year Earnings – Claimants who continue to claim benefits after they return to work or who misreport earnings during a week in which benefits are claimed;
- Employers Do Not Timely Report Employees' Separation – Employers or their third-party administrators who fail to provide timely and adequate information about why individuals separated from their employment; and
- Fraud – Claims based on fraudulent schemes, such as those perpetrated during the pandemic..[9]

A Perfect Storm

Following the start of the pandemic in the United States in early 2020, unemployment compensation claims rose exponentially to historically unprecedented levels. Prior to the pandemic, numbers of UI claims were historically low. On March 14, 2020, the Department reported 282,000 initial unemployment claims. Within 2 to 3 weeks, initial claims rose to 10 times pre-pandemic levels, far higher than state systems were designed to handle..[10] Within 5 months, through August 15, 2020, the Department reported 57.4 million initial claims, the largest increase since the Department began tracking UI data in 1967.

The CARES Act provided significant funding to the UI program, which resulted in hundreds of billions of dollars in additional payments. New UI programs under the CARES Act meant more workers qualified..[11] Further, unemployed workers received a supplement per week in addition to their regular benefit amount and individuals who exhausted their regular unemployment benefits were provided additional weeks of

[8] The Middle Class Tax Relief and Job Creation Act of 2012 requires that individuals receiving UI benefits must be able to work, available to work, and actively seeking work as a condition of eligibility for regular compensation for any week. Accordingly, states generally require that unemployed workers demonstrate they were actively seeking work. Work search overpayments occur when states pay UI claimants who do not demonstrate that they were actively seeking work.
[9] ETA has included fraud as an element of the leading causes rather than as a separate cause. From July 2016 to March 2020, the other three causes resulted in over $9 billion in improper payments. Of this total, more than $3 billion was attributable to fraud. Since the pandemic started, fraud has significantly increased.
[10] COVID-19: States Struggled to Implement CARES Act Unemployment Insurance Programs, Report No. 19-21-004-03-315 (May 28, 2021), available at: https://www.oig.dol.gov/public/reports/oa/2021/19-21-004-03-315.pdf
[11] The PUA program covered workers not typically covered by UI who could self-certify that they were able to and available for work but unemployed due to COVID-19-related reasons.

unemployment compensation. Also, certain UI claims could be backdated to the beginning of the eligibility period. With the legislative extensions, claimants could receive up to 79 weeks of pandemic-related UI payments.

In June 2020, the OIG provided a member briefing[12] and a statement for the record[13] to Congress highlighting challenges DOL and states faced in administering and overseeing the UI program as well as the substantially increased fraud risk. The expanded coverage offered under the PUA program posed significant challenges to states as they implemented processes to determine initial and continued program eligibility for participants. The reliance solely on claimant self-certifications without evidence of eligibility and wages during the program's first 9 months rendered the PUA program extremely susceptible to improper payments, including fraud. In March 2022, the OIG provided oral and written testimony before the U.S. Senate Committee on Homeland Security and Governmental Affairs that spoke to the continuation of many of these concerns and challenges..[14]

As the OIG reported, the unprecedented infusion of federal funds into the UI program gave individuals and organized criminal groups a high-value target to exploit. That, combined with easily attainable stolen personally identifiable information and continuing UI program weaknesses identified by the OIG over the last several years, allowed criminals to defraud the system. Because many states were not prepared to process the extraordinary volume of new UI claims and struggled to implement the new UI programs, some internal controls that had been traditionally used or recommended for the processing of UI claims were not initially put in place.

This created multiple high-reward targets where an individual could make a fraudulent claim with relatively low risk of being caught. For example, as time went on, one fraudster could have been issued several UI debit cards, with tens of thousands of dollars on each card. In fact, in an audit, we found 1 claim that was filed from a 3-bedroom house shared the same physical address as 90 other claims and used the same email address as 145 other claims..[15] In total, the likely fraudsters received $1,569,762 in unemployment benefits. In the same audit, we found that, from

[12] "Subcommittee on Government Operations Briefing with the Inspector General for the Department of Labor," Member Briefing, Opening Statement of Scott S. Dahl, Inspector General, U.S. Department of Labor; House Committee on Oversight and Reform; Subcommittee on Government Operations (June 1, 2020), available at: https://www.oig.dol.gov/public/testimony/20200601.pdf
[13] "Unemployment Insurance During COVID-19: The CARES Act and the Role of Unemployment Insurance During the Pandemic," Hearing, Statement for the Record of Scott S. Dahl, Inspector General, U.S. Department of Labor; Senate Committee on Finance (June 9, 2020), available at: https://www.oig.dol.gov/public/testimony/20200609.pdf
[14] "Pandemic Response and Accountability: Reducing Fraud and Expanding Access to COVID-19 Relief through Effective Oversight," Hearing, Statement for the Record of Larry D. Turner, Inspector General, U.S. Department of Labor; Senate Committee on Homeland Security and Governmental Affairs (March 17, 2022), available at: https://www.oig.dol.gov/public/testimony/20220317.pdf
[15] COVID-19: ETA and States Did Not Protect Pandemic-Related UI Funds from Improper Payments including Fraud or from Payment Delays, Report No. 19-22-006-03-315 (September 30, 2022), available at: https://www.oig.dol.gov/public/reports/oa/2022/19-22-006-03-315.pdf

March 28, 2020, to September 30, 2020, in 4 states, potentially fraudulent claims were paid 60.5 percent of the time.

Estimating the overall improper payment rate for the pandemic UI programs is critical for the efficient operation of the program. ETA and the states, under their program operating responsibilities, must determine the improper payment rate, including the fraud rate, for pandemic UI programs. In August 2020, we recommended that ETA estimate the improper payment rate for pandemic UI programs. In December 2021, consistent with our recommendation, ETA reported an improper payment rate of 18.71 percent for 2021, which ETA applied to two of the three key pandemic UI programs, PEUC and FPUC. Additionally, in December 2022, ETA reported an improper payment rate of 21.52 percent, which it also applied to PEUC and FPUC.[16]

We previously reported that, applying the 18.71 percent to an estimated $872.5 billion in federal pandemic UI funding, at least $163 billion in pandemic UI benefits could have been paid improperly, with a significant portion attributable to fraud. We are now able to report updated information, with two primary changes: (1) ETA released its annual improper payment rate estimate for fiscal year (FY) 2022 and (2) ETA has recently provided a total for pandemic UI spending.[17] While that expenditure information is likely to be updated, we are now able to report on actual expenditures rather than on estimated funding.

With those updates, more than $888 billion in total federal and state UI benefits were paid for benefit weeks during the UI pandemic period.[18],[19] Applying the estimated 21.52 percent improper payment rate to the approximate $888 billion in pandemic UI expenditures, at least $191 billion in pandemic UI payments could have been improper payments, with a significant portion attributable to fraud.

[16] ETA's reported improper payment rate estimate of 21.52 percent does not include the PUA program. However, it is the most current improper payment rate from ETA. Furthermore, PUA had control weaknesses that may have facilitated comparable or greater improper payments. Therefore, applying ETA's rate to all of the approximately $888 billion in UI payments for the pandemic period including PUA would equate to at least $191 billion in improper payments.
[17] According to ETA, the data provided reflects CARES Act UI program activity through January 23, 2023, with the exception of the Temporary Full Federal Funding of the First Week of Compensable Regular Unemployment for States with No Waiting Week program, which is through December 31, 2022; data provided regarding the regular UI, Unemployment Compensation for Federal Employees, and Unemployment Compensation for Ex-Servicemembers programs reflect the monthly totals from April 2020 through September 2021.
[18] With the exception of PUA, for which claims could be backdated to January 27, 2020, we define the UI pandemic period as March 27, 2020, through September 6, 2021. We also note that, according to ETA, it cannot provide final total costs of the programs because states are still processing claims that were for weeks of unemployment prior to expiration of the programs.
[19] The Government Accountability Office published a relevant report in December 2022 that cited approximately $878 billion in UI payments for the period reviewed. The expenditure information we have provided in this testimony contains more recent updates than were available to the Government Accountability Office when it published its report, which is available at: https://www.gao.gov/products/gao-23-105523.

Based on our audit and investigative work, the improper payment rate for pandemic UI programs was likely higher than 21.52 percent. For example, neither of these two rates included estimates for the PUA program. ETA stated it would report the estimated improper payment rate for PUA in 2022. However, the Office of Management and Budget granted the Department an extension to report on PUA in FY 2023. To date, the Department has not yet reported the PUA improper payment rate.

As previously mentioned, PUA had control weaknesses that may have facilitated comparable or greater improper payments. The reliance solely on claimant self-certifications without evidence of eligibility and wages during PUA's first 9 months rendered the program extremely susceptible to improper payments including fraud. Notably, in the first 6 months after the CARES Act passed, we found 4 states paid $1 out of $5 in PUA benefits to likely fraudsters..[20] Subsequent to our work identifying the fraud risks, Congress took action to require supporting documentation to improve states' abilities to ensure proper claimant eligibility and to mitigate fraud. However, a significant amount of UI benefit money had already been paid improperly.

When the OIG identifies anti-fraud measures that may help the program, we share them with the Department and SWAs as appropriate. For example, in alert memoranda issued in February 2021,.[21] in June 2021,.[22] and in September 2022,.[23] our investigators, auditors, and data scientists collaboratively identified $45.6 billion of potentially fraudulent UI benefits paid in four high-risk areas, to individuals with Social Security numbers: (1) filed in multiple states, (2) of deceased persons, (3) of federal inmates, and (4) used to file for UI claims with suspicious email accounts (see Table 1).

[20] COVID-19: ETA and States Did Not Protect Pandemic-Related UI Funds from Improper Payments including Fraud or from Payment Delays, Report No. 19-22-006-03-315 (September 30, 2022), available at: https://www.oig.dol.gov/public/reports/oa/2022/19-22-006-03-315.pdf
[21] Alert Memorandum: The Employment and Training Administration Needs to Ensure State Workforce Agencies Implement Effective Unemployment Insurance Program Fraud Controls for High Risk Areas, Report No. 19-21-002-03-315 (February 22, 2021), available at: https://www.oig.dol.gov/public/reports/oa/2021/19-21-002-03-315.pdf
[22] Alert Memorandum: The Employment and Training Administration Needs to Issue Guidance to Ensure State Workforce Agencies Provide Requested Unemployment Insurance Data to the Office of Inspector General, Report No. 19-21-005-03-315 (June 16, 2021), available at: https://www.oig.dol.gov/public/reports/oa/2021/19-21-005-03-315.pdf
[23] Alert Memorandum: Potentially Fraudulent Unemployment Insurance Payments in High-Risk Areas Increased to $45.6 Billion, Report No. 19-22-005-03-315 (September 21, 2022), available at: https://www.oig.dol.gov/public/reports/oa/2022/19-22-005-03-315.pdf

Table 1: Potential Fraud in Four High-Risk Areas through April 2022

High-Risk Area	Total Potential Fraud Reported through April 2022
Multistate Claimants	$28,967,047,154
Deceased Persons	$139,483,136
Federal Prisoners.[24]	$267,382,013
Suspicious Emails	$16,265,578,304
Total	**$45,639,490,607**

Source: OIG analysis of data from SWAs, the U.S. Department of Justice's Bureau of Prisons, and the U.S. Social Security Administration

We shared our methodology and underlying data[25] with ETA for further dissemination to the SWAs, and we recommended they establish effective controls to mitigate fraud and other improper payments to ineligible claimants. We are currently examining whether states took effective measures to address the four high-risk areas.

In its December 2022 report,[26] the Government Accountability Office (GAO) included these findings in support of the determination that substantial levels of fraud and potential fraud occurred during the pandemic. GAO noted that the Department has not yet developed an antifraud strategy or addressed the most significant fraud risks in the program. GAO also reported that all six of its October 2021 recommendations to ETA for UI fraud risk assessment remain open. GAO is currently attempting to determine an estimate of fraud in the UI program, having reported a potential minimum of $60 billion in pandemic-related fraudulent UI payments.

OIG Pandemic Investigative Work

The volume of UI investigative matters currently under review is unprecedented in the OIG's history. Prior to the pandemic, the OIG opened approximately 100 UI investigative matters annually. Since April 1, 2020, the OIG has opened over

[24] The OIG did not have access to federal prisoner data to conduct additional analysis for this memorandum. The amount remains the same as what we reported in the June 2021 alert memorandum. In the June 2021 alert memorandum, the OIG utilized UI data from March 2020 through October 2020.
[25] Data provided to DOL for further dissemination to the SWAs included data related to more than 3 million suspicious claimants associated with over $16 billion that the OIG identified in our alert memorandum dated June 16, 2021. The over $16 billion did not include about $915 million in potential fraud that was identified under more than one area. As soon as is practical, the OIG will share further data related to additional suspicious claimants identified in a subsequent alert memorandum with DOL so that it can disseminate this information to the SWAs. The methodology has not changed.
[26] GAO, Unemployment Insurance: Data Indicate Substantial Levels of Fraud during the Pandemic; DOL Should Implement an Antifraud Strategy, Report No. GAO-23-105523 (December 22, 2022), available at: https://www.gao.gov/products/gao-23-105523

198,000 investigative matters concerning UI fraud. That is an increase of more than 1,000 times in the volume of UI work that we are facing. UI investigations now account for approximately 96 percent of the OIG investigative case inventory, compared to approximately 11 percent prior to the pandemic.

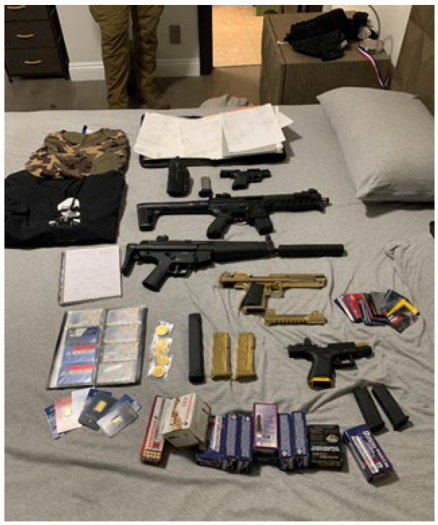
In response to the extraordinary increase in oversight demands, the OIG hired additional criminal investigators; increased the caseload of investigators already onboard; deployed federal and contract staff to review DOL and states' efforts; and strengthened our data analytics program. In addition, we took several other actions to augment our efforts, including the following:

- initiated the development of a National UI Fraud Task Force,[27] alongside the U.S. Department of Justice (DOJ);
- collaborated with DOJ on the strategic assignment of 12 term-appointed assistant United States attorneys assigned solely to prosecute UI fraud;
- established a multi-disciplinary Pandemic Rapid Response Team within the OIG;
- appointed a National UI Fraud Coordinator to manage our national investigative response to UI fraud;
- appointed seven Regional UI Fraud Coordinators to partner with SWAs and federal, state, and local law enforcement on UI fraud matters in their geographic areas of responsibility;
- leveraged resources from the Council of the Inspectors General on Integrity and Efficiency, Pandemic Response Accountability Committee (PRAC);
- collaborated with state auditors to help develop their audit strategies for the CARES Act UI programs;
- joined the DOJ COVID-19 Fraud Enforcement Task Force;[28]
- implemented an extensive outreach and education program targeted to SWAs, the Department, financial institutions and their associations, law enforcement agencies, and the public to inform and raise awareness regarding fraud trends, best practices, red flags, and more;[29] and
- joined DOJ's Pandemic Fraud Strike Force Teams initiative..[30]

[27] More information on the National Unemployment Insurance Fraud Task Force is available at: https://www.justice.gov/coronavirus/national-unemployment-insurance-fraud-task-force.
[28] DOJ Office of Public Affairs, "Attorney General Announces Task Force to Combat COVID-19 Fraud," press release (May 17, 2021), available at: https://www.justice.gov/opa/pr/attorney-general-announces-task-force-combat-covid-19-fraud
[29] The OIG has issued or assisted in issuing an: UI fraud consumer protection guide; UI fraud investigations guide; UI fraud alert for state/local law enforcement; UI text message phishing alert; UI fraud and phishing alert; UI fraud and identity theft alert; and UI detection and mitigation alert for financial institutions, available at: https://www.oig.dol.gov/OIG_Pandemic_Response_Portal.htm.
[30] The OIG joined the DOJ and other federal law enforcement partners as participants on the DOJ's new COVID-19 Strike Force Teams initiative, announced on September 14, 2022. These Strike Force teams will operate out of U.S. Attorney's Offices in the Southern District of Florida, the District of Maryland, and a joint effort between the Central and Eastern Districts of California. They will use dedicated special agents from the OIG to focus on significant fraud schemes with an international nexus. DOJ, "Department Announces COVID-19 Fraud Strike Force Teams," press release (September 14, 2022), available at: https://www.justice.gov/opa/pr/justice-department-announces-covid-19-fraud-strike-force-teams

As the primary federal law enforcement agency responsible for providing oversight of the UI program, the OIG has vigorously pursued COVID-19 pandemic-related UI fraud. In fact, we announced in September 2022 that OIG investigations had resulted in more than 1,000 individuals being charged with crimes involving UI fraud since March 2020..[31] This number has risen.

As of January 2023, our pandemic investigations have resulted in upwards of 700 search warrants executed and over 1,200 individuals charged with crimes related to UI fraud. These charges resulted in more than: 500 convictions; 11,000 months of incarceration; and $905 million in investigative monetary results. We have also referred over 23,000 fraud matters that do not meet federal prosecution guidelines back to the states for further action.



During the execution of a UI fraud search warrant, OIG agents recovered multiple firearms, UI debit cards, and notebooks containing personally identifiable information.

In one recent OIG investigation, 11 members and associates of the Brooklyn-based Woo Gang were charged with a multi-million-dollar pandemic UI fraud scheme..[32] In another recent OIG investigation, a former California Employment Development Department employee was sentenced to more than 5 years in prison for fraudulently obtaining nearly $4.3 million in pandemic relief UI funds..[33]

[31] "Labor Watchdog's Pandemic Work Results in More Than 1,000 Individuals Charged with UI Fraud and $45.6 Billion Identified in Potentially Fraudulent Pandemic UI Benefits," press release (September 22, 2022), available at: https://www.oig.dol.gov/public/Press%20Releases/DOL-OIG%20Pandemic%20Work%20Results%20in%20More%20Than%201000%20Individuals%20Charged%20with%20UI%20Fraud.pdf. For more details about OIG investigations, please visit: https://www.oig.dol.gov/OIG_Pandemic_Response_Portal.htm.

[32] DOJ, U.S. Attorney's Office, Eastern District of New York, "11 Members and Associates of the Brooklyn-Based Woo Gang Charged with Multi-Million Dollar COVID Unemployment Insurance Fraud," press release, (February 17, 2022), available at: https://www.oig.dol.gov/public/Press%20Releases/11_Members_and_Associates_of_the_Brooklyn-Based_Woo_Gang_Charged_with_Multi-Million_Dollar_COVID.pdf

[33] DOJ, U. S. Attorney's Office, Central District of California, "One-Time EDD Employee Sentenced to More Than 5 Years in Prison for Fraudulently Obtaining Nearly $4.3 Million in COVID Relief Funds," press release (February 4, 2022), available at: https://www.oig.dol.gov/public/Press%20Releases/One-Time_EDD_Employee_Sentenced_to_More_Than_5_Years_in_Prison_for_Fraudulently_Obtaining_Nearly.pdf

In another OIG investigation, a Nigerian state official was sentenced to 5 years in prison for stealing U.S. disaster aid, including approximately $500,000 in pandemic-related unemployment benefits. The official stole the personal identifying information of more than 20,000 Americans to submit more than $2 million in claims for federally funded disaster relief benefits and fraudulent tax returns..[34]

Working with Domestic and International Law Enforcement Partners

Early in the pandemic, the OIG worked with the DOJ to create the National UI Fraud Task Force, a nine-agency federal task force focused on law enforcement intelligence sharing, deconfliction, joint national and regional messaging, and the effective use of investigative and prosecutorial resources. The National UI Fraud Task Force has also worked closely with partners at the International Organized Crime Intelligence and Operations Center (IOC-2) to develop a deconfliction process to coordinate investigative information across federal law enforcement agencies. Through data analytics and a leads generation process, the National UI Fraud Task Force and IOC-2 partner agencies have identified significant fraud committed against the UI program by domestic and international criminal organizations. Many of these include street-level criminal organizations with ties to illegal guns and drugs. These investigations are ongoing and actively being investigated through the National UI Fraud Task Force, the COVID-19 Fraud Enforcement Task Force, and the COVID-19 Strike Force initiative.

The OIG has been very engaged on DOJ's COVID-19 Fraud Enforcement Task Force. We have representation on its subcommittees involving communications, forfeiture, corporations and large business fraud, and data, and we co-chair the task force's criminal enterprise subcommittee. Recently, the OIG also joined the DOJ Strike Force initiative.

The OIG has also participated in other initiatives. For example, in 2020 and 2021, the OIG supported DOJ's annual Money Mule Initiative,.[35] which aimed to raise awareness about and suppress money mule activity. Money mules are people who, at someone else's direction, receive and move money obtained from victims of fraud. The OIG conducted extensive internal and external outreach regarding money mules and identified and targeted money mules in coordination with DOJ and other partner agencies.

In addition, the OIG issued alerts to financial institutions about UI fraud both on its own and jointly with its partners, such as the U.S. Secret Service (Secret Service), Financial Crimes Enforcement Network (FinCEN), and the National UI Fraud Task Force. One

[34] DOJ, U.S. Attorney's Office, Western District of Washington, "Nigerian state official sentenced to 5 years in prison for stealing U.S. disaster aid and taxpayer refunds," press release (September 26, 2022), available at: https://www.oig.dol.gov/public/Press%20Releases/Nigerian_state_official_sentenced_5_years_stealing_disaster_aid_USAO%20WD-WA_09262022.pdf

[35] More information about DOJ's Money Mule Initiative is available at: https://www.justice.gov/civil/consumer-protection-branch/money-mule-initiative.

such joint OIG/Secret Service alert[36] served as a framework for the recovery of millions of dollars of fraudulent UI funds being held by financial institutions. Later, in 2021, the OIG authored a National UI Fraud Task Force alert issued through FinCEN to financial institutions requesting they identify funds they froze due to suspicion of fraud. The OIG created a process with DOJ and the Secret Service to collect that data and work with those financial institutions to return fraudulent funds to SWAs. The OIG and its law enforcement partners are working with hundreds of financial institutions in response to our request.

The PRAC has also played a pivotal role in amplifying the ability of OIGs to share information and conduct internal and external outreach to stakeholders that have been impacted by pandemic fraud. For example, the OIG worked with the PRAC on social media tool kits related to money mule activity and erroneous 1099-G forms that were issued to victims of UI fraud. The OIG has also worked with the PRAC, DOJ, and the Secret Service to create a web-based survey where financial institutions can more broadly report UI and other types of pandemic fraud. This information is being collected by the PRAC, analyzed by its partners, and, if appropriate, sent to field personnel for further action.

The OIG, through its membership in IOC-2, has also been engaged with several allied national police agencies to strategize about pandemic-related fraud and how to best establish practices to share information. The issue of pandemic fraud has not only been an issue for the United States, but it has also negatively impacted our foreign partners' pandemic programs. We have conducted outreach and education related to pandemic fraud, including UI fraud, with our Five Eyes.[37] partner countries as participants on the International Public Sector Fraud Forum.

The OIG, IOC-2, and our federal law enforcement partners have identified numerous instances of international organized criminal groups engaged in UI fraud. We will continue to work with our domestic and international law enforcement partners on these matters.

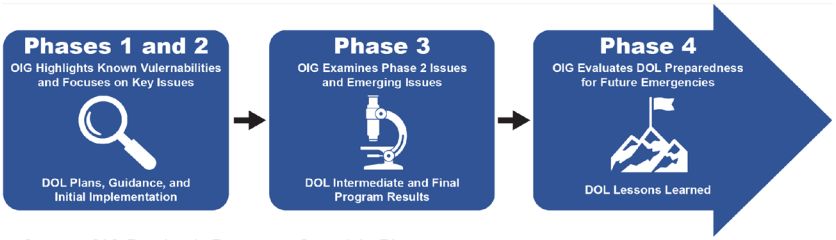
[36] Secret Service and OIG, "Detection and Mitigation of Unemployment Insurance Fraud Guidance for Financial Institutions," July 6, 2020, available at: https://www.neach.org/Portals/0/USSS-DOL%20OIG%20UI%20Advisory%207_6_2020.pdf

[37] Five Eyes is an intelligence alliance. The Five Eyes countries include Australia, Canada, New Zealand, the United Kingdom and the United States. The International Public Sector Fraud Forum consists of representatives from organizations from the Five Eyes countries, whose collective aim is to share best and leading practices in fraud management and control across public borders. International Public Sector Fraud Forum guidance is available at: https://www.gov.uk/government/publications/international-public-sector-fraud-forum-guidance.

OIG Pandemic Oversight Work

In April 2020, shortly after CARES Act enactment, we published our Pandemic Response Oversight Plan[38] detailing how the OIG would conduct its pandemic oversight, with a significant focus on the UI program. We designed our four-phased plan to provide recommendations to DOL to address current and emerging vulnerabilities with the pandemic response and to prevent similar vulnerabilities from hampering preparedness for future emergencies (see Figure 2).

Figure 2: The OIG's Four-Phased Design for Pandemic Oversight



Source: OIG Pandemic Response Oversight Plan

Phases 1 and 2, which are complete, focused on DOL's plans, guidance, and initial implementation of administration and oversight activities. Phase 3 audit work, assessing program results and emerging issues, is ongoing. Our Phase 4 work plans include summarizing our pandemic response oversight work and reporting on lessons learned related to UI, worker safety and health, and employment and training. We have published two plan updates, most recently on March 21, 2022, with another planned for FY 2023.

At the start of the pandemic, we examined past audits including those related to the Recovery Act and the DUA program,.[39] and we assessed comparable lessons learned.

[38] Pandemic Response Oversight Plan (updated March 21, 2022), available at: https://www.oig.dol.gov/public/oaprojects/Updated%20Pandemic%20Response%20Oversight%20Plan%202022%20for%20Publication.pdf

[39] Examples include: Recovery Act: DOL Could Have Better Monitored the Use of Re-employment Services Funds to Adhere to Standards for Transparency and Accountability, Report No. 18-11-005-03-315 (March 31, 2011), available at: https://www.oig.dol.gov/public/reports/oa/2011/18-11-005-03-315.pdf; Recovery Act: States Challenged in Detecting and Reducing Unemployment Insurance Improper Payments, Report No. 18-16-005-03-315 (August 2, 2016), available at: https://www.oig.dol.gov/public/reports/oa/2016/18-16-005-03-315.pdf; and Audit of Florida Disaster Unemployment Assistance Grant Number 1359 - DR (March 26, 2004), Report No. 04-04-004-03-315 (March 26, 2004), available at: https://www.oig.dol.gov/public/reports/oa/2004/04-04-004-03-315.pdf.

As a result, in April 2020, we issued the previously noted advisory report[40] identifying six initial areas of concern for ETA and the states to consider while implementing CARES Act UI provisions: (1) state preparedness (specifically the issues of staffing and system capabilities), (2) initial eligibility determination, (3) benefit amount, (4) return to work, (5) improper payment detection and recovery, and (6) program monitoring. Our identification of these areas represents at least 16 years of work relating to DOL's UI program, including the response to past disasters. The advisory report summarized dozens of OIG recommendations to implement corrective action in these areas.

We have issued several subsequent reports, including alert memoranda addressing urgent concerns, involving the UI program, such as the following:

- In May 2020, we issued an alert memorandum.[41] describing our concerns regarding claimant self-certification in the PUA program. In our view, reliance on such self-certifications rendered the PUA program highly vulnerable to improper payments including fraud. Subsequent to our work, Congress took action to require supporting documentation to improve states' abilities to ensure proper claimant eligibility and to mitigate fraud through the Consolidated Appropriations Act, 2021.

- In August 2020, we reported.[42] states did not use existing tools effectively to combat fraud and other improper payments. We also stated ETA should work with the OIG to obtain access to state claimant data that could be used to identify and disrupt fraudulent schemes that threaten the integrity of UI programs, including those under the CARES Act.

- In May 2021, we reported.[43] that DOL and states struggled to implement the three pandemic UI programs that posed the greatest risk for fraud, waste, and abuse: PUA, PEUC, and FPUC. Specifically, DOL's guidance and oversight did not ensure states: implemented the programs and paid benefits promptly, performed required and recommended improper payment detection and recovery activities, or reported accurate and complete program activities. This occurred primarily because states' IT systems were not modernized, staffing resources

[40] Advisory Report: CARES Act: Initial Areas of Concern Regarding Implementation of Unemployment Insurance Provisions, Report No. 19-20-001-03-315 (April 21, 2020), available at: https://www.oig.dol.gov/public/reports/oa/2020/19-20-001-03-315.pdf
[41] Alert Memorandum: The Pandemic Unemployment Assistance Program Needs Proactive Measures to Detect and Prevent Improper Payments and Fraud, Report No. 19-20-002-03-315 (May 26, 2020), available at: https://www.oig.dol.gov/public/reports/oa/2020/19-20-002-03-315.pdf
[42] COVID-19: More Can Be Done to Mitigate Risk to Unemployment Compensation Under The CARES Act Report No. 19-20-008-03-315 (August 7, 2020), available at: https://www.oig.dol.gov/public/reports/oa/2020/19-20-008-03-315.pdf
[43] COVID-19: States Struggled to Implement CARES Act Unemployment Insurance Programs, Report No. 19-21-004-03-315 (May 28, 2021), available at: https://www.oig.dol.gov/public/reports/oa/2021/19-21-004-03-315.pdf

were insufficient to manage the increased number of new claims, and, according to state officials, ETA's guidance was untimely and unclear.

- In November 2021, we issued[44] the Department a qualified opinion, for the first time in 25 years, on its consolidated financial statements and reported one material weakness related to pandemic-related UI funding. There were two primary causes for this issue: (1) the Department being unable to support $47.3 billion it estimated for UI claims in appeal or unprocessed as of September 30, 2021, and (2) unreliable reporting of $4.4 billion in UI benefit overpayments due to certain states' non-reporting of UI overpayment activity.

- In July 2022, we reported[45] that the Department did not meet the requirements for compliance with the Payment Integrity Information Act (PIIA) for FY 2021. PIIA requires federal agencies to identify programs susceptible to significant improper payments, estimate the improper payments for those programs, and report on actions to reduce the improper payments in those programs. While DOL met three of the six compliance requirements for UI programs, we found DOL did not meet the other three requirements: it did not publish all improper payment estimates, did not demonstrate improvement from the improper target rate published in FY 2020, and did not report an improper payment rate of less than 10 percent.

- In August 2022, we issued an alert memorandum.[46] describing our concerns regarding states either not submitting required CARES Act UI program reports to ETA or reporting zero activity. We found the reporting to be deficient for the eight reports we examined. For the PUA program, which was highly susceptible to improper payments including fraud, seven states reported zero overpayments for all months during the entire program period of March 2020 through September 2021. Without accurate state performance information, Congress and ETA are not able to: fully assess state activities, mitigate the risk of overpayments including fraud, identify program weaknesses, or establish lessons learned that may be leveraged to improve states' performance under similar, future temporary programs.

[44] FY 2021 Independent Auditor's Report on the DOL Financial Statements, Report No. 22-22-003-13-001 (November 19, 2021), available at: https://www.oig.dol.gov/public/reports/oa/2022/22-22-003-13-001.pdf
[45] The U.S. Department of Labor Did Not Meet the Requirements for Compliance with the Payment Integrity Information Act for FY 2021, Report No. 22-22-007-13-001 (July 1, 2022), available at: https://www.oig.dol.gov/public/reports/oa/2022/22-22-007-13-001.pdf
[46] Alert Memorandum: Employment and Training Administration Needs to Ensure State Workforce Agencies Report Activities Related to CARES Act Unemployment Insurance Programs, Report No. 19-22-004-03-315 (August 2, 2022), available at: https://www.oig.dol.gov/public/reports/oa/2022/19-22-004-03-315.pdf

- As of September 2022, we have issued three alert memoranda[47] that identified a total of $45.6 billion in potentially fraudulent UI benefits paid from March 2020 through April 2022 in the four specific high-risk areas previously mentioned, to individuals with Social Security numbers: (1) filed in multiple states, (2) of deceased persons, (3) of federal prisoners, and (4) used to file UI claims with suspicious email accounts. We previously recommended in our June 2021 alert memorandum that ETA amend 20 Code of Federal Regulations Part 603 and update its guidance to provide the OIG with access to SWA UI data for all IG engagements authorized under the Inspector General Act of 1978, as amended (IG Act). In September 2022, we recommended ETA implement immediate measures to ensure ongoing OIG access to UI claims data for audit and investigative purposes and expedite regulatory updates to require ongoing disclosures of UI information to the OIG for audits and investigations of federal programs.

- In September 2022, we reported[48] ETA and states did not protect pandemic-related UI funds from historic levels of improper payments including fraud nor from payment delays. We attributed this to four causes: lack of eligibility testing, untimely oversight, PUA self-certification, and the 3-month suspension of a primary oversight tool. Additionally, DOL's interpretation of its regulations on data access hindered the OIG's timely and complete access to UI claims data to assist in detecting and deterring fraud. We estimated that, in the initial 6 months after the CARES Act passed, 4 states paid $30.4 billion in PUA and FPUC benefits improperly (42.4 percent) including $9.9 billion paid to likely fraudsters (13.8 percent). Further, based on our analysis of ETA's timeliness reports, at least 6.2 million American workers nationwide waited a month or more for pandemic-related UI benefits during the year after the CARES Act passed.

- In December 2022, for the second straight year, we issued[49] the Department a qualified opinion on its consolidated financial statements and reported one material weakness related to pandemic-related UI funding. There were two primary causes for this issue: (1) the Department was unable to support

[47] (1) Alert Memorandum: The Employment and Training Administration (ETA) Needs to Ensure State Workforce Agencies (SWA) Implement Effective Unemployment Insurance Program Fraud Controls for High Risk Areas, Report No. 19-21-002-03-315 (February 22, 2021), available at: https://www.oig.dol.gov/public/reports/oa/2021/19-21-002-03-315.pdf;
(2) Alert Memorandum: The Employment and Training Administration Needs to Issue Guidance to Ensure State Workforce Agencies Provide Requested Unemployment Insurance Data to the Office of Inspector General, Report No. 19-21-005-03-315 (June 16, 2021), available at: https://www.oig.dol.gov/public/reports/oa/2021/19-21-005-03-315.pdf; and
(3) Alert Memorandum: Potentially Fraudulent Unemployment Insurance Payments in High-Risk Areas Increased to $45.6 Billion, Report No. 19-22-005-03-315 (September 21, 2022), available at: https://www.oig.dol.gov/public/reports/oa/2022/19-22-005-03-315.pdf

[48] COVID-19: ETA and States Did Not Protect Pandemic-Related UI Funds from Improper Payments including Fraud or from Payment Delays, Report No. 19-22-006-03-315 (September 30, 2022), available at: https://www.oig.dol.gov/public/reports/oa/2022/19-22-006-03-315.pdf

[49] FY 2022 Independent Auditor's Report on the DOL Financial Statements, Report No. 22-23-002-13-001 (December 13, 2022), available at: https://www.oig.dol.gov/public/reports/oa/2023/22-23-002-13-001.pdf

$7.9 billion it estimated in remaining pandemic-related UI claims in appeal or unprocessed as of September 30, 2022, and (2) the Department was unable to support the $3.5 billion it estimated in remaining pandemic-related UI benefit overpayment receivables.

OIG Recommendations

The OIG has made several recommendations to DOL and Congress to improve the efficiency and integrity of the UI program. While action has been taken to resolve some recommendations, further action is needed to close them. Summaries of key recommendations that remain open follow.

OIG Recommendations to DOL

OIG Access to Claims and Wage Data

- Implement immediate measures to ensure ongoing OIG access to UI claims data for all audit and investigative purposes
- Expedite regulatory updates to require ongoing disclosures of UI information to the OIG for audits and investigations of federal programs

Staffing and Systems for Prompt Payments during Emergencies

- Continue to work with states to develop, operate, and maintain a modular set of technological capabilities (i.e., staffing and replacing legacy IT systems) to modernize the delivery of UI benefits that is sufficient to manage and process sudden spikes in claims volume during emergencies or high unemployment
- Create a rapid response team consisting of federal and state officials capable of providing technical and other assistance to SWAs impacted by major disasters
- Conduct a study to assess: the technological needs of the UI programs to determine the capabilities that need to be upgraded or replaced, the features necessary to effectively respond to rapid changes in the volume of claims in times of emergency or high unemployment, the capabilities needed to ensure effective and equitable delivery of benefits, and the capabilities to minimize fraudulent activities
- Develop standards for providing clear and reasonable timeframes to implement temporary programs to establish expectations for prompt benefit payments to claimants

Controls for Improper Payments

- Establish effective controls, in collaboration with SWAs, to mitigate fraud and other improper payments to potentially ineligible claimants, including multistate claimants, claimants who used Social Security numbers of deceased persons and federal prisoners, and claimants with suspicious email accounts

- Include CARES Act UI transactions in the Benefit Accuracy Measurement (BAM).[50] system or develop an alternative methodology to reliably estimate improper payments for those programs
- For DOL financial statements, design and implement controls to ensure management's reviews of [UI program] estimates are performed at a sufficient level of detail and adequate documentation is maintained to assess the reasonableness of the estimates

Guidance and Assistance to States

- Assist states with claims, overpayment, and fraud reporting to create clear and accurate information, and then use the overpayment and fraud reporting to prioritize and assist states with fraud detection and recovery
- Examine the effectiveness of the BAM system contact verification process to ensure it reflects the current methods claimants use to seek work

Coordination with Congress

- Work with Congress to establish legislation requiring SWAs to cross-match in high-risk areas, including to individuals with Social Security numbers: filed in multiple states, of deceased persons, of federal prisoners, and with suspicious email accounts

OIG Recommendations to Congress

In addition, Congress should consider legislative proposals included in prior DOL budget requests and pass legislation to improve UI program integrity. The DOL proposals include the following:

- require SWAs to cross-match UI claims against the National Directory of New Hires;
- require SWAs to cross-match UI claims with the U.S. Social Security Administration's prisoner database and other repositories of prisoner information;
- allow SWAs to retain 5 percent of UI overpayment recoveries for program integrity purposes; and
- require SWAs to use UI penalty and interest collections solely for UI administration.

These legislative proposals are consistent with previous OIG findings and recommendations to improve the UI program.

The OIG has also recommended that Congress ensure DOL and the OIG have ongoing, timely, and complete access to UI claimant data and wage records for our respective

[50] BAM is a quality control statistical survey used to identify errors and support corrective action in the state UI system. It usually focuses on the three major UI programs: regular UI, Unemployment Compensation for Federal Employees, and Unemployment Compensation for Ex-service members. The BAM data are an estimate of the total improper payments in the UI program, in each state and the nation as a whole, based on a statistically valid examination of a sample of paid and denied claims.

oversight responsibilities. In addition, in our November 2022 Semiannual Report to Congress, the OIG recommended that Congress extend the statute of limitations for fraud involving pandemic-related UI programs, and authorize OIG participation in asset forfeiture funds to combat UI fraud and other crimes.

DOL's Progress

The Department has emphasized the progress it has made in addressing challenges with the UI program. According to DOL, it has instituted efforts to focus on program integrity when implementing the pandemic-related UI programs. These efforts include establishing agreements with states to comply with all applicable requirements to receive funds, issuing operating guidance, and providing technical assistance to SWAs individually and through webinars. DOL has included requirements for SWAs to focus on program integrity in its guidance relevant to UI funds. In addition, DOL has reinforced the need for SWAs to actively work with the OIG to address fraud in the UI program. As previously mentioned, GAO recently reported that DOL has yet to develop an antifraud strategy to ensure it addresses the most significant fraud risks facing the UI system..[51]

The Department has facilitated the OIG's access to UI data but only for benefit weeks covered by CARES Act programs and related extensions. In addition, ETA has required grant recipients to share state UI data with the OIG as a condition of the fraud prevention grants offered under the American Rescue Plan Act of 2021 (ARPA), which will provide such access through December 31, 2023. However, three states did not receive the grants; therefore, the data provided to the OIG will be incomplete. The OIG needs access to all UI program data to effectively do its job.

On August 31, 2021, the Department announced the establishment of the Office of Unemployment Insurance Modernization to work with state and federal partners to modernize and reform the UI system..[52] According to DOL, the Office of Unemployment Insurance Modernization will provide oversight and management of the $2 billion allotted to UI initiatives by ARPA to prevent and detect fraud, promote equitable access, ensure timely benefit payments, and reduce backlogs.

The Department also noted it has announced grant opportunities to states, including funds for pilot states to engage community-based organizations to help workers learn about UI benefits and related services and to support state agencies in delivering timely benefits to workers. DOL stated it has also made progress on implementing further grant opportunities, such as for: fraud prevention, promoting equitable access to UI programs, the Tiger Teams initiative to consult with states in improving UI systems and

[51] GAO, Unemployment Insurance: Data Indicate Substantial Levels of Fraud during the Pandemic; DOL Should Implement an Antifraud Strategy, Report No. GAO-23-105523 (December 22, 2022), available at: https://www.gao.gov/products/gao-23-105523

[52] For information about the strategic vision outlined in August 2021 UI modernization plans, a fact sheet is available at: https://oui.doleta.gov/unemploy/pdf/FactSheet_UImodernization.pdf.

processes, and the opportunity to participate in its UI IT Modernization Project-Claimant Experience Pilot..[53]

OIG Challenges Overseeing the UI Program

The OIG's three biggest challenges overseeing the UI program are in the areas of data access, resource limitations, and the statute of limitations related to UI fraud.

Data Access

The OIG's lack of ongoing, timely, and complete access to UI claimant data and wage records from SWAs remains a significant challenge. This deficiency directly and adversely impedes the OIG's ability to provide independent oversight and combat fraud, waste, and abuse to help DOL reduce improper payments in its programs, including regular and temporary UI programs.

The power and use of data and predictive analytics enables the OIG to continuously monitor DOL programs and operations to detect and investigate fraud. Continuous monitoring serves as a deterrent to fraud, allows the OIG to promptly discover areas of weakness, and assists DOL management to timely correct problems. However, the OIG's ability to proactively detect UI fraud through our audit and investigative activities continues to be impacted by these data concerns.

Prior to August 2021, DOL required SWAs to disclose UI data only for specific fraud investigations. DOL asserted it lacked the authority to require SWAs to provide UI data to the OIG for audits. As a result, the OIG was forced to take the unprecedented step of using Inspector General subpoenas to obtain this critical data. DOL's interpretation of its regulations hindered the OIG's ongoing, timely, and complete access to state UI claims data to assist in detecting and deterring large-scale fraud.

Specifically, DOL continues to interpret regulations.[54] as prohibiting ETA from requiring SWAs to provide UI data to the OIG for all audit and investigative purposes, except those involving specific instances of suspected fraud. This interpretation and subsequent guidance to SWAs contradict the IG Act, which authorizes mandatory OIG access to DOL grantee information, including SWAs' UI data.

[53] For more details, Training and Employment Notice No. 16-21 is available at: https://www.dol.gov/sites/dolgov/files/ETA/advisories/TEN/2021/TEN_16-21.pdf.
[54] 20 Code of Federal Regulations Part 603

In our June 2021 alert memorandum,[55] we recommended that ETA amend its regulations[56] through the rulemaking process to reinforce that SWAs' UI information must be provided to the OIG for all IG engagements authorized under the IG Act, including audits, evaluations, and investigations. To date, ETA has implemented only a temporary solution. On August 3, 2021, ETA issued guidance[57] requiring SWAs to disclose UI data to the OIG for audits and investigations during the period January 27, 2020, to September 6, 2021. ETA also awarded fraud prevention grants to states conditioned on requiring OIG access to their UI data for investigative and audit purposes through December 31, 2023.

However, ETA's actions are not sufficient to resolve the OIG's recommendations or concerns. In response to our recommendations, ETA has taken limited actions to support the OIG having access to UI data. For example, it published guidance that reminded states of the OIG's authority under the IG Act and strongly encouraged states to comply with OIG requests. ETA also informed us it is considering comprehensive updates to the relevant regulations. We met with ETA numerous times and requested a written plan with projected timelines. ETA provided a plan to the OIG in July 2022. The projected timeline creates a 14-month gap between when the grants requiring OIG access end on December 31, 2023, and the publication of updated regulations anticipated to be effective in February 2025. Unless the Department implements an interim solution ensuring the OIG's complete and timely access to UI program data and information by the end of 2023, the Department's regulations will renew impediments to the OIG's access experienced prior to and during the pandemic and may necessitate additional subpoenas.

While the OIG and ETA agree that changing regulations requires notice and comment rulemaking, an immediate and legally sound interim solution is available to ETA. In the alert memorandum issued September 21, 2022, the OIG highlighted the Department's authority to amend its interpretation of its regulations without changing the regulations themselves. ETA could immediately amend its interpretation of its regulations to be consistent with the IG Act. Specifically, ETA can issue guidance to inform SWAs that they must timely provide UI data to the OIG for audits and investigations consistent with the IG Act. The historic levels of improper payments that the OIG has identified, including potential fraud, supports the conclusion that the OIG's continued access to state UI data is imperative.

To aid in resolving this issue, we previously requested that Congress consider legislative action to authorize DOL and the OIG to have unfettered access to UI claimant data and wage records for our oversight responsibilities. Unfettered access to states' UI claimant data and wage records systems would further enable the OIG to

[55] Alert Memorandum: The Employment and Training Administration Needs to Issue Guidance to Ensure State Workforce Agencies Provide Requested Unemployment Insurance Data to the Office of the Inspector General, Report No. 19-21-005-03-315 (June 16, 2021), available at: https://www.oig.dol.gov/public/reports/oa/2021/19-21-005-03-315.pdf
[56] 20 Code of Federal Regulations Part 603.5 and Part 603.6(a)
[57] Unemployment Insurance Program Letter (UIPL) No. 04-17, Change 1

quickly identify large-scale fraud and expand its current efforts to share emerging fraud trends with ETA and SWAs to strengthen the UI program and deter fraud before it occurs. In addition, conducting data analytics from such access would further enable our auditors to identify program weaknesses and recommend corrective actions that would improve the timeliness of UI benefit payments and the integrity of the UI program. To underscore this point, based on the data obtained by the OIG, our auditors, investigators, and data scientists in our Office of Audit and Office of Investigations worked collaboratively to identify $45.6 billion of dollars in potential UI fraud[58] paid in the four specific high-risk areas, such as to multistate claimants and deceased persons.

Resource Limitations

The OIG greatly appreciates that Congress appropriated a total of $38.5 million in supplemental funding during the pandemic to fund the OIG's oversight of expanded DOL programs and operations. However, most of this funding will be fully expended by the first or second quarter of FY 2024. In addition, the OIG's FY 2021 and FY 2022 appropriations remained flat and the FY 2023 appropriation was $11 million less than requested. As a result, the OIG is currently in the process of reducing its workforce through attrition. This includes reducing our investigative capacity by approximately 20 percent by the end of FY 2023. Similarly, from an oversight perspective, the OIG has had to cancel 10 audits related to pandemic oversight that were planned for FY 2023. These reductions in the OIG's investigative and audit capacity are of great concern given the issues discussed in this testimony.

Today, the OIG has 111 field agents to investigate approximately 2,000 investigative matters currently assigned to our field offices, an average of 18 investigative matters per agent. The ideal caseload per agent is between 5 and 10 open investigative matters, which ensures that the matter can proceed efficiently through the investigative and prosecutorial processes. It is important to note that the OIG is still reviewing approximately 162,000 open UI fraud complaints received throughout the pandemic and continues to receive between 100 to 300 new UI fraud complaints each week.

In addition, based on past oversight experience of federal UI disaster aid, the OIG expects to be actively investigating UI fraud relating to the pandemic for several years. The OIG will likely be conducting these investigations through at least September 2026 when the statute of limitations for most pandemic-related violations will have expired. In many cases, the statute of limitations will expire sooner than that. We simply do not have the resources to review the 162,000 open UI fraud complaints and to conduct investigations of each instance of suspected fraud before the statute of limitations expires.

Similarly, the OIG has less than 100 auditors to oversee DOL programs that cost taxpayers billions of dollars each year. The OIG intended to use its remaining ARPA

[58] Alert Memorandum: Potentially Fraudulent Unemployment Insurance Payments in High-Risk Areas Increased to $45.6 Billion, Report No. 19-22-005-03-315 (September 21, 2022), available at: https://www.oig.dol.gov/public/reports/oa/2022/19-22-005-03-315.pdf

funds to conduct additional oversight work using contractors and to support that work using contract data analysts and scientists. However, the OIG is now forced to use the remaining ARPA funds to fund salaries and benefits of employees brought on board during the pandemic to assist with the oversight of pandemic-related programs and operations. This will result in fewer audits and recommendations for improvement of pandemic-related programs and operations.

Finally, although the OIG has focused the majority of its audit and investigative resources on UI benefit programs, the OIG has extensive responsibilities covering other high-risk DOL programs that continue to warrant significant oversight, including:

- other worker benefit programs, such as workers' compensation;
- worker safety and health, including occupational and miner safety and health and workplace rights;
- employment and training programs, including grants and the Job Corps program;
- statistics, legal and international programs, and contracting;
- information technology and data analytics;
- financial management and single audits; and
- other DOL operations and programs.

Areas of significant concern include managing medical benefits such as opioids, maintaining the integrity of Foreign Labor Certification programs, protecting the security of employee benefit plan assets, ensuring the solvency of the Black Lung Disability Trust Fund, and improving the Job Corps' procurement process. It is a crucial time for the OIG to help DOL ensure programmatic strength to review the effectiveness, efficiency, economy, and integrity of DOL programs and operations.

Over the past 10 fiscal years, on average, every dollar invested in the OIG resulted in a return on investment of nearly 75 dollars to the federal government and American taxpayers. Over this period, the OIG identified more than $69 billion including questioned costs and funds recommended to be put to better use. The OIG offers an important investment for U.S. taxpayers, particularly in times of resource constraint.

Statute of Limitations

We are concerned that, unless Congress acts to extend the statute of limitations for fraud associated with pandemic-related UI programs, many groups and individuals that have defrauded the UI program may escape justice. Even with the OIG's tireless efforts, the current statute of limitations associated with UI fraud means federal law enforcement may still fall short in fully investigating and prosecuting the most egregious cases of UI fraud, especially given the volume and complexity of UI fraud matters we are tasked to investigate. Currently, the statute of limitations for many of these cases will expire in 2025 as the statutes most often used to prosecute UI fraud have 5-year limitations.

Pandemic-related UI fraud referrals that we receive often include complex schemes involving criminal enterprises and bad actors who use sophisticated techniques to maintain their anonymity. For instance, in a recent pandemic-related UI fraud investigation into the theft of over $4 million in UI benefits from a SWA, conspirators orchestrated a scheme to file UI claims using stolen identities, which were often associated with elderly citizens..[59] The conspirators then opened bank accounts using the stolen identities for the sole purpose of having fraudulent UI proceeds deposited into them. They withdrew the fraudulent proceeds and purchased money orders made out to themselves and to an online vehicle auction company. The conspirators then laundered the UI funds by using the money orders to purchase salvaged automobiles in the United States and ship them to Nigeria. They also facilitated the transfer of conspiracy proceeds to overseas bank accounts in Nigeria. This complex fraud investigation spanned both domestic and foreign jurisdictions. The defendants have been convicted of conspiracy to commit wire fraud.

Criminal investigations like this one require significant resources and time. Although the OIG is currently returning to pre-pandemic staffing levels due to limited resources, we had temporarily leveraged resources from Congress to hire more criminal investigators and significantly expand the number of staff reviewing UI fraud matters. We have also leveraged additional federal resources by partnering with DOJ and other federal law enforcement agencies. While these investigative resources have helped us address the incredible volume of UI fraud matters, the OIG anticipates identifying and investigating pandemic-related UI fraud until the statute of limitations expires, which, absent congressional action, will start to expire in early 2025.

In August 2022, an extension of the statute of limitations was implemented for crimes involving the U.S. Small Business Administration's Paycheck Protection Program and Economic Injury Disaster Loan program..[60] Congress should likewise consider extending the statute of limitations for existing laws when pandemic-related UI programs are defrauded. The expansion of the statute of limitations would provide investigators and prosecutors time to effectively and efficiently pursue and hold accountable those who defrauded the UI program and victimized the American people during the pandemic.

OIG Ongoing and Planned Work

The OIG's efforts to strengthen and protect the UI program continue. In addition to working with our law enforcement partners to combat fraud in the program, we will be issuing additional audit reports covering critical areas of concern and opportunities for improvement in the UI program.

[59] DOJ, U.S. Attorney's Office, Northern District of Alabama, "Georgia Resident Pleads Guilty to COVID-19 Unemployment Fraud Targeting Several States," press release (June 8, 2022), available at: https://www.justice.gov/usao-ndal/pr/georgia-resident-pleads-guilty-covid-19-unemployment-fraud-targeting-several-states

[60] The White House, "Bills Signed: H.R. 7334 and H.R. 7352," (August 5, 2022), available at: https://www.whitehouse.gov/briefing-room/legislation/2022/08/05/bills-signed-h-r-7334-and-h-r-7352/

Planned and in-progress.[61] Phase 3 audit work includes:

- ETA's efforts to ensure UI program integrity;*
- DOL's oversight of emergency UI administrative transfers to states;*
- ETA and state efforts to detect and recover overpayments;*
- adequacy of state IT resources;*
- adequacy of state staffing resources;*
- effectiveness of programs for nontraditional claimants;*
- effectiveness of the Temporary Full Federal Funding program;*
- effectiveness of the Short-Time Compensation program;*
- effectiveness of the Mixed Earners Unemployment Compensation program;*
- effectiveness of the Emergency Unemployment Relief for State and Local Governmental Entities, Certain Nonprofit Organizations, and Federally-Recognized Indian Tribes program;*
- PRAC Case Study Project on federal pandemic response funds in select geographic areas;*
- concerns over use of third-party identity verification contractors;*
- ETA and states' efforts to address multistate claimants;*
- ETA and states' efforts to address claimants using the Social Security numbers of deceased persons;*
- ETA and states' efforts to address claimants using the Social Security numbers of federal prisoners;*
- ETA and states' efforts to address claimants with suspicious email accounts;*
- concerns over data warehousing and analytics to prevent UI fraud;*
- DOL and states' oversight of UI claimants return to work;
- ARPA Equity Grants; and
- impact of waivers on UI overpayments, fraud investigations, and recoveries.

Conclusion

Mr. Chairman, the OIG remains committed to providing vigilant oversight of the UI program. As I discussed today, keeping fraud out of the UI program through preventative efforts and controls and quickly rooting it out when it occurs are requisite undertakings to ensure that unemployed workers receive much needed benefits without delay while protecting tax dollars directed towards sustaining the UI system. We will continue to work closely with Congress, DOL, and our law enforcement partners to keep these important benefits available for workers in need.

Beyond our UI work, the OIG's pandemic oversight continues to involve a substantial focus on other essential programs operated by DOL, including worker safety and health and employment and job training programs. We also continue oversight over numerous other areas including: combatting threats to the integrity of foreign labor certification

[61] Audits in progress are marked with an asterisk (*).

programs, addressing the opioid crisis by fighting fraud against the Federal Employees' Compensation Act program, and overseeing the efficiency and integrity of other important DOL programs and operations.

Thank you for the opportunity to testify at today's hearing. I would also like to take a moment to thank the dedicated employees of the OIG, who continue to work tirelessly in support of the agency and our essential oversight mission.

I would be pleased to answer any questions you or the other members of the Committee may have.

Chairman SMITH. Thank you, sir.
Mr. Horowitz, you are now recognized.

STATEMENT OF MICHAEL HOROWITZ, CHAIR, PANDEMIC RESPONSE ACCOUNTABILITY COMMITTEE (PRAC)

Mr. HOROWITZ. Thank you, Chairman Smith, Ranking Member Neal, members of the committee. Thank you for inviting me to testify today.

The PRAC was created by Congress to provide independent oversight of the approximately $5 trillion in pandemic relief spending, and to help coordinate and support inspector general oversight. Working with our local, state, and Federal oversight partners, including the comptroller general and IG Turner, we are helping to reduce fraud in pandemic programs and hold accountable those who have stolen from them.

We are also advancing transparency through our website: PandemicOversight.gov, by allowing the public to use interactive tools to see how their money is being spent. Indeed, on PandemicOversight.gov the public can find a spotlight section detailing the over $800 billion on—spent on pandemic unemployment insurance programs, and includes an interactive map on state reporting of their program integrity.

The PRAC raised concerns about pandemic unemployment insurance program integrity shortly after the first programs were adopted. In June 2020 we convened stakeholders in a virtual listening forum to hear from state workforce and unemployment agency leaders about the massive increase in UI claims, resulting in a strain on their systems and the need for greater Federal-state cooperation on data sharing. We have worked closely with our state and local counterparts on these issues, including providing them with regular briefings and fraud alerts.

In December 2021, we issued a capstone report that can be found on our website that shares 4 common challenges that states faced in managing the pandemic unemployment insurance programs.

First, programs faced severe staffing shortages as claims surged. Between March 14 and April 18, 2020, weekly unemployment claims increased from about 225,000 to 5.3 million when the unemployment rate reached 15 percent, the highest recorded rate since 1948.

Second, the claim surge exposed existing internal control weaknesses.

Third, complex and varying fraud schemes increased as the amount of Federal funding grew.

Fourth, states experienced challenges verifying eligibility because of outdated IT systems and the mass influx of claims.

Then, last year, we surveyed state workforce agencies and released a best practices report that can also be found on our website. Among the best practices that we believe should be replicated are increased use of cross-matching of data between state agencies; improved coordination between SWAs and state and Federal law enforcement, local IGs, and state auditors; more effective use of enterprise risk management; increased IT modernization efforts; and the use of advanced data analytics to build multi-layer fraud defenses, including identity verification tools.

Indeed, the PRAC itself has developed an advanced data analytics platform to help us oversee pandemic spending. The sophisticated work of our data scientists has been instrumental in identifying improper payments and fraudulent activity. Just last week we issued a fraud alert highlighting the use of over 69,000 questionable Social Security numbers to obtain $5.4 billion in pandemic loans and grants, as well as the importance of identity verification tools. We recently received pandemic UI data, and we will be using our analytics capabilities to search for potential fraud across these programs.

We are also focusing on efforts to address identity theft, a huge problem that grew exponentially during the pandemic.

In addition, we launched a fraud task force to enable us to better coordinate OIG investigations, including those involving UI fraud, to exchange information about fraud schemes, and to share resources.

We also participated in the Justice Department's COVID–19 Fraud Enforcement Task Force, and have detailed a PRAC analyst to work on the National Unemployment Insurance Fraud Task Force.

Finally, I would like to mention three legislative priorities for the PRAC.

First, Congress should extend, as IG Turner mentioned, the statute of limitations from 5 to 10 years for pandemic-related unemployment insurance fraud, as the Congress did last year for PPP and EIDL fraud.

Second, Congress should raise the jurisdictional amount in the program remedy—in the Program Fraud Civil Remedies Act from $150,000 to $1 million, so IGs can more effectively pursue lower-dollar frauds.

Finally, Congress should make permanent the PRAC's data analytics platform. We need, on behalf of the taxpayers, that sophisticated tool to prevent and detect fraud.

Thank you for the committee's support, and I look forward to answering your questions.

[The statement of Mr. Horowitz follows:]



PANDEMIC RESPONSE ACCOUNTABILITY COMMITTEE
A Committee of the Council of the Inspectors General on Integrity and Efficiency
PandemicOversight.gov

Statement of Michael E. Horowitz
Chair, Pandemic Response Accountability Committee
Inspector General, U.S. Department of Justice

before the

U.S. House of Representatives
Committee on Ways & Means

concerning

"Fraud in Federal Unemployment Insurance Programs"

February 8, 2023

Mr. Chairman, Ranking Member Neal, and Members of the Committee:

Thank you for inviting me to testify today about the oversight work of the Pandemic Response Accountability Committee (PRAC), which Congress created in March 2020 as part of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). The PRAC provides independent oversight of the approximately $5 trillion in pandemic relief spending and helps coordinate and facilitate oversight by the Inspectors General (IGs) whose agencies administer federal pandemic relief programs. It has been my honor to serve as Chair of the PRAC since April 2020. Working together with our local, state, and federal oversight partners, we are ensuring transparency in pandemic spending, helping to reduce fraud in pandemic programs, and holding accountable those who have stolen from and defrauded these programs.

About the PRAC

The PRAC is housed within the Council of the Inspectors General on Integrity and Efficiency (CIGIE) and is comprised of 20 federal Inspectors General that work collaboratively to oversee the more than $5 trillion in federal pandemic relief emergency spending. Our primary mission is to work with Offices of Inspector General (OIGs) to ensure that taxpayer money is being used effectively and efficiently to address the pandemic-related public health and economic needs funded through the various COVID-19 relief bills.

To facilitate our mission, we

- **promote transparency** by publicly reporting accessible and comprehensive pandemic relief spending data;
- **collaborate across the oversight community** to identify cross-cutting issues and program risks;
- **detect and prevent fraud, waste, abuse, and mismanagement of relief spending** through leading-edge data insights and analytic tools; and
- **hold wrongdoers accountable** by marshaling the investigative and analytic resources of the oversight community.

My testimony today highlights the PRAC's achievements since March 2020 in fulfilling these objectives,

particularly with respect to the pandemic unemployment insurance programs created by the CARES Act.

Background

As a result of the COVID-19 pandemic, workers across the country experienced unprecedented levels of unemployment. According to the Bureau of Labor Statistics, in April 2020 the unemployment rate reached 15 percent—the highest observed since data collection began in 1948. Between March 14, 2020, and April 18, 2020, weekly unemployment claims increased dramatically from 225,500 to 5.3 million.

Generally, each state manages and funds its own unemployment benefits program according to federal guidelines and with technical assistance from the Department of Labor (DOL). However, the federal government can fund extensions and expansions of benefits during emergencies. Consequently, the CARES Act created three new unemployment insurance (UI) programs that collectively extended, expanded, and increased UI benefits to help respond to widespread pandemic-induced unemployment.

- The **Federal Pandemic Unemployment Compensation (FPUC) program** added a weekly supplement of $600 to the amount individuals received in state unemployment benefits. This supplement lapsed briefly but was later reauthorized in December 2020 at a reduced weekly supplement of $300.

- The **Pandemic Unemployment Assistance (PUA) program** expanded eligibility to workers who do not receive traditional unemployment benefits such as self-employed workers, gig workers, freelancers, and independent contractors. Subsequent legislation extended these benefits to up to 79 weeks.

- The **Pandemic Emergency Unemployment Compensation (PEUC) program** extended the length of time that individuals can receive unemployment benefits. Generally, benefits are available for up to 26 weeks, but the PEUC program enabled individuals to claim benefits up to 79 weeks.

All three programs expired on September 6, 2021, and paid in total approximately $669 billion in benefits.[1]

Longstanding UI Program Challenges Exacerbated by Surge in Claims and Reliance on Self-Certification

Simply put, the existing UI systems were unprepared to handle the massive surge in claims experienced during the pandemic. Traditional UI programs have long been considered high-risk, with improper payment rates exceeding 10 percent in 14 of the 17 years preceding the pandemic. Among the long-standing program challenges are outdated IT systems for processing claims and the lack of emergency staffing.

According to the National Association of State Workforce Agencies (SWAs), more than half of states relied on outdated unemployment computer systems during the pandemic. In March 2021, the DOL OIG found that some states had IT systems that did not allow them to detect and recover improper payments because the systems did not have the capacity to cross-match data for the large volumes of pandemic UI claims.

DOL OIG also found that states faced emergency staffing challenges similar to those during the 2008-2009 Great Recession, when it took some states over a year to spend available funds to hire staff to help process claims. State officials reported to DOL OIG they could not find qualified staff during the pandemic and if they did, it was difficult to hire workers remotely.

The CARES Act also increased the risk of improper payments by allowing claimants for PUA benefits to self-certify their eligibility. Self-certification is a risk the PRAC and our oversight partners identified in this and other pandemic relief programs that opens the door to significant fraud. It is also contrary to what occurs in traditional UI programs, where employers verify eligibility by attesting to a claimant's employment status and identity. For workers covered by the PUA program, no third party or employer can verify employment status.

[1] According to DOL data, approximately $878 billion in benefits were paid across all UI programs from April 2020 through September 2022. In addition to new pandemic UI programs, approximately $209 billion in regular UI benefits were paid.

The PRAC and its IG partners raised concerns early in 2020 about unemployment insurance program integrity. In June 2020, the PRAC convened stakeholders in a virtual listening forum to hear from state workforce and unemployment agency leaders firsthand about the massive increase in UI claims, resulting strain on their systems, and need for greater federal-state cooperation on data sharing. As early as April 2020, DOL OIG reported that self-certification rendered the PUA program highly susceptible to fraud. This, combined with ongoing UI program weaknesses and the challenge of processing historic volumes of claims, enabled criminals to defraud the programs. In December 2020, Congress enacted the Coronavirus Response and Relief Supplemental Appropriations Act of 2021, which amended the CARES Act to require documentation to prove UI eligibility. However, the nine-month gap during which documentation was not required likely led to significant fraud, particularly in the PUA program. For example, in September 2022 DOL OIG tested a sample of cases in four states (California, Kentucky, Georgia, and Michigan) and estimated that 1 in 5 dollars initially paid in PUA benefits likely went to fraudsters.

Consistent with our efforts to support member IGs, the PRAC provided assistance to DOL OIG as it grappled with increased workload investigating fraud in pandemic UI programs. Prior to the pandemic, DOL OIG opened approximately 100 UI investigative matters annually. Over the past two years, DOL OIG is opening between 100 to 300 new UI fraud matters each week. To assist with the influx of hotline complaints, the PRAC provided a staff detailee to DOL OIG's hotline office. We also provided Labor OIG with an attorney on detail to facilitate data sharing efforts necessary for the OIG to conduct oversight of UI programs and address potential fraud. Given the historic nature of the fraud and resulting investigative workload, we are continuing to explore ways the PRAC can support DOL OIG through data sharing and advanced analytics.

Data Access and Data Sharing Remains an Ongoing Challenge

As previously mentioned, UI programs are administered by individual State Workforce Agencies (SWAs)[2] under federal guidelines and with administrative support from DOL. Historically, DOL did not believe it had the authority to give DOL OIG access to UI data that DOL had received from the states because the programs are administered by states. To obtain access after the pandemic hit, DOL OIG used the unprecedented action of issuing subpoenas to 54 states and U.S. territories, a process that took several months to complete. In August 2021—nearly 18 months after the program began—DOL granted

[2]Fifty-four SWAs administer UI programs across the 50 states, the District of Columbia, Puerto Rico, Guam, and the U.S. Virgin Islands.

DOL OIG access to pandemic-related unemployment insurance program data. However, that access expired when the programs ended a month later. DOL OIG regained access to data as a condition of DOL fraud prevention grants issued to SWAs in connection with the American Rescue Plan Act, but that access will expire at the end of 2023. Further, three states did not participate in these grants. Pursuant to specific CARES Act authorities granting access to information from "any agency" or "authorized designee," the PRAC first was granted access to pandemic UI data by DOL in December 2022. This further underscores the need for better data sharing within the federal government and with its state and local partners.

DOL OIG has stated that a permanent approach to accessing unemployment insurance data may require action by Congress. Direct access to state unemployment benefit data would improve DOL OIG's ability to conduct independent oversight of the program and prevent and detect future fraud. For example, DOL OIG stated that its data scientists were able to identify billions of dollars in potential UI fraud once they had access to program data.

In addition to data access, improving data sharing among states is important in detecting potential fraud. A common scheme in UI is individuals filing claims to receive benefits in multiple states. DOL OIG was able to identify multi-state fraud claims because it collected UI data from all 50 states, the District of Columbia, and three U.S. territories. To help states root out this fraud, the National Association of SWAs Integrity Data Hub allows states to cross-match UI data with other states to identify a number of red flags like suspicious bank accounts and emails, but also claims filed in multiple states. In December 2020, 32 of 54 SWAs used or partially used the Integrity Data Hub.

Key Insights and Emerging Issues

The PRAC's collaborative efforts across all levels of government – federal, state, and local – have uniquely positioned us to provide key insights into the challenges of administering emergency UI programs. In December 2021, we issued a capping report that shared four common challenges that 16 different states experienced.

1. UI workloads surged for states.

   SWAs experienced a surge in UI claims—sometimes doubling and tripling the number of claims almost overnight—that limited or delayed the response capabilities of states. This increase in claims was ultimately the catalyst for many of the other challenges that SWAs faced during the

pandemic. Several State Auditors reported on the increase in UI claims and how these claims ultimately impacted the quality of service the SWAs could provide.

- Kansas' SWA experienced a more than 1,000 percent increase in the state's regular unemployment claims between February 2020 and April 2020. Further, during April 2020 alone, there were roughly 12.5 million telephone calls to the Kansas SWA customer service call center.

- The Washington State Auditor highlighted that one week in March 2020 generated over 180,000 claims. For context, the Auditor reported that only four times in the entirety of 2019 did weekly claims reach more than 10,000.

- California's State Auditor reported that its SWA experienced a dramatic increase in unemployment claims—comparing it to the number of claims received following the Great Recession of 2008 and 2009, with over 2.5 million more unemployment claims during the first half of 2020 alone.

- The Oklahoma State Auditor found that its SWA paid out $2.2 billion in unemployment benefits in Fiscal Year 2020, ten times more than in Fiscal Year 2019.

The significant increase in UI claims impacted many SWAs' ability to provide adequate customer service and created serious delays for individuals to receive benefits. For example, the Ohio State Auditor found that while prior to March 2020 the state met the DOL's benchmark (87 percent) from processing claimant's first UI payment within two weeks, in May 2020 roughly half the state's first payments took between 22 and 70 days. By October 2020, the processing of approximately 40 percent of first payments had taken more than 70 days. Further, the influx in claims forced the Ohio SWA to hire a large number of temporary staff who lacked specialized training, which made it difficult for the Ohio SWA to effectively use them to quickly deal with the backlog of claims that required staff intervention during 2020.

2. The surge in claims exploited existing internal control weaknesses.

   Internal controls within SWAs' unemployment programs were often reduced to handle the influx or were simply not effective enough to properly detect the high levels of fraud occurring. Several State Auditors identified that internal controls in their SWA failed to detect fraudulent activity. These failed controls ultimately limited the states' ability to ensure that UI funds went to those who

needed it instead of bad actors who fraudulently applied for benefits. Specifically, State Auditors found that the PUA eligibility requirements decreased internal controls and that state-specific control weaknesses for identity and eligibility verification negatively impacted the SWA's ability to detect fraud. The reduction in controls to receive PUA benefits was a direct cause of the widespread fraud seen across states.

- A report from the Arizona Auditor General found that the Arizona SWA paid $1.6 billion in federal UI benefits to individuals who used stolen identities in Fiscal Year 2020.

- The Colorado State Auditor identified $243,000 of federal unemployment funds distributed to claimants involved identity theft. For example, the data showed one invalid social security number used 151 times.

State Auditors also found that their SWAs were not adequately equipped to address the eligibility verifications issues related to unemployment claims during the pandemic.

- The Louisiana Legislative Auditor found that the Louisiana SWA faced difficulties in verifying an individual's eligibility for unemployment benefits. As a result of inadequate claimant eligibility verification, the SWA paid $45.7 million to claimants who were not eligible to receive benefits.

- The Colorado State Auditor reported that the Colorado SWA stopped performing wage cross-matching due to a delay in the implementation of its new unemployment system. The Colorado SWA indicated that it was not able to implement its new system on time due to the need to stand up new federal pandemic programs. The State Auditor noted this impacted the SWA's ability to ensure that claimants were both eligible and receiving the appropriate amount of benefits.

- The Michigan Auditor General found that the eligibility criteria their SWA established for PUA was not authorized in the CARES Act nor by DOL guidance which led to improper eligibility determinations. Further, the SWA continued to make improper eligibility determinations 9 months after DOL had notified the state of deficiencies within its PUA application. In total, data from Michigan's SWA revealed that they had provided $3.9 billion in overpayments to ineligible claimants. Michigan's Auditor General emphasized that the SWA will likely be unable to recover the overpayments because the SWA was at fault, not the claimants.

3. Uncommon and varying fraud schemes began to occur as the amount of federal funding for UI programs increased.

   While many State Auditors found weaknesses in their SWA's internal controls to detect and prevent fraud in their unemployment programs, a number of State Auditors reported on other fraud schemes that bad actors used to prey on UI programs that may not have been as prevalent prior to the pandemic. These reports highlight the breadth of the fraud schemes occurring across states and demonstrate the need for a continued focus on detecting and preventing unique and complex fraud. These fraud schemes included insider threats; incarcerated individuals fraudulently accessing benefits; and complex, multi-state fraud schemes.

   - Since our December 2021 report, we've seen an increase in the number of states reporting fraud cases involving SWA employees, including Washington, Louisiana, and West Virginia.
   - We also found that multiple states paid benefits to ineligible individuals, including prisoners, with California estimating it sent $800 million in benefits to 45,000 prisoners. The Louisiana Legislative Auditor found that the Louisiana SWA's data match between unemployment benefit information and incarceration data was not functioning properly, resulting in the distribution of $6.2 million in state and federal UI payments to almost 1,200 incarcerated individuals between January 2020 and November 2020.
   - DOL OIG identified one case where a single Social Security Number was used to apply for unemployment benefits in 40 different states, resulting in the disbursement of a total of $222,532 from 29 of those states.

4. SWAs experienced IT system challenges.

   Multiple states experienced issues verifying eligibility because of outdated IT systems. Legacy systems and the mass influx of claims contributed both to the risk of improper payments and delayed needed benefits. The need for IT modernization has been longstanding across many states. State Auditors, including those in Florida, Oklahoma, Illinois, and Kansas, found that issues with technology systems impacted the ability of their SWAs to properly provide pandemic UI benefits to residents. However, these were not the only states susceptible to pandemic-related challenges with their computer systems. As previously mentioned, according to the National Association of

State Workforce Agencies, over half of states were relying on outdated unemployment computer systems as of February 2021.

In February 2022, we issued *Best Practices and Lessons Learned from the Administration of Pandemic Related Unemployment Benefits Programs*, a study we commissioned from MITRE, a federally funded not-for-profit research center. The report highlights best practices for minimizing fraud risk and lessons learned from surveying State Workforce Agencies that administered pandemic unemployment insurance programs. SWAs reported that upfront identity verification tools were critical to stopping fraudsters in their tracks. SWAs explained that there are many ways for fraudsters to either generate convincing personally identifiable information (PII) or steal actual PII, which can then be used to file for UI. Identity verification tools require proof of identity before an individual can move forward with any type of registration or claim process, thereby ensuring that the individual presenting the PII is indeed who they say they are. While identity verification tools are not foolproof, SWAs that implemented them reported a reduction in UI fraud associated with identity theft.

Over time some SWAs updated the fraud indicators and filters used in their fraud prevention data analytics and cross-matching. Fraud indicators look for commonalities among data points across multiple claims and multiple data environments. Timely and accessible data to query and cross-match against was critical for SWAs to enhance the fraud indicators incorporated into their analytics and using those analytics to detect and prevent fraud.

We added state-level expertise to the PRAC team to further enhance our collaboration with the state and local oversight community. In September 2022, we launched the federal IG community's first-ever state auditor-in-residence program and detailed two professionals from the Tennessee Comptroller's office to the PRAC to better inform federal pandemic oversight with local insights. Additionally, we brought on Elaine Howle as Special Advisor for State, Local, Tribal, and Territorial Oversight. A nationally recognized expert and the former California State Auditor, Ms. Howle brings nearly 40 years of professional auditing and leadership experience to the PRAC. Further, during her tenure as California State Auditor, her office performed significant pandemic oversight work that uncovered more than $10 billion in potential fraud in the new UI programs.

In addition to these coordination efforts with our oversight partners, we have met weekly with leadership in the Office of Management and Budget (OMB) and the American Rescue Plan (ARP) implementation team. These meetings have enabled the PRAC and IGs to, among other things, timely

share issues that have arisen with Executive Branch leadership and ensure that any impediments to our oversight work are addressed promptly. We also have, separately, participated in more than two dozen meetings focused on agency-specific pandemic relief programs, including UI, where the agency provides an overview of the program to be implemented, payment integrity risks, and reporting and performance mechanisms. Participants in the briefings, which are hosted by the ARP implementation team and OMB leadership, include the implementing agency, that agency's OIG, and the PRAC. This model allows for the presentation and consideration of antifraud controls before a program is implemented and before money goes out the door.

In December 2021, OMB Memorandum M-22-04 highlighted the importance of this approach: "Agencies have been encouraged to proactively engage with their IGs in the design of new or expanded ARP programs. The White House ARP Implementation Coordinator, working with OMB, developed a new process bringing together the agency, their IG, the PRAC, OMB, and the ARP Implementation team to collectively review and assess program design, financial controls, and reporting measures prior to the release of funds from programs that were newly created, received substantial funding increases, or required significant changes to program design." In April 2022, OMB memorandum M-22-12 directed agencies to oversee infrastructure spending with the same collaborative approach we have used for pandemic spending.

This process of engagement by senior Executive Branch and agency officials with IGs and the PRAC has become a model for how to manage large-scale emergency spending initiatives and balance the need for robust independent oversight with timely program implementation.

Using Advanced Data Analytics to Better Target Investigations and Hold Wrongdoers Accountable

The only way to effectively oversee $5 trillion in relief spending is with data. At the PRAC, we have been using advanced data science to further our oversight mission in a manner never undertaken by the Inspector General community. Using funding provided by Congress in the American Rescue Plan, the PRAC created the Pandemic Analytics Center of Excellence (PACE) to deliver world-class analytic, audit, and investigative support to the oversight community. The PACE applies the best practices from the operation of the Recovery Operations Center (ROC), which was created by the Recovery Accountability and Transparency (RAT) Board to support OIGs in oversight of the American Recovery and Reinvestment Act of 2009 but which ceased to exist in 2015 when the RAT Board sunset. With the ROC, we learned that OIGs stand a better chance of identifying fraud and improper payments by

combining data sets and using tools like link analysis, text mining, and anomaly detection.

We have built a data analytics center that, to date, has more than 36 datasets, providing access to more than 992 million records from public, non-public, and commercial data sources, each of which has specific rules governing their use. Some of these datasets can be shared across the OIG community. For example, we are sharing SBA nonpublic loan level datasets with 42 OIGs and law enforcement agencies as part of our effort to combat PPP and EIDL fraud. Further, thanks to the hiring authority provided to the PRAC in the CARES Act, we have been able to attract top data science talent from across the country. Not only has this aided the PRAC, but our highly successful Data Science Fellows program has detailed data scientists to OIGs to facilitate and support their pandemic-related data analytics efforts.

The sophisticated work of the PRAC's data scientists and our data analytics platform have been instrumental in advancing our efforts to identify improper payments and fraudulent activity in pandemic programs. In addition to our January 30, 2023 Fraud Alert highlighting the use of over 69,000 questionable SSNs to obtain $5.4 billion in pandemic loans and grants, our data scientists are, among other things, developing robotic processes for automating some of the tasks associated with monitoring pandemic relief spending. They identify flags and anomalies, sending those to our investigators for a closer look. They also develop risk models to help Inspectors General identify high-risk recipients of pandemic funds. We recently received UI data from the 54 SWAs and plan to undertake data matching analysis to search for potential fraud across programs.

Advanced analytics tools like these are helping our partners search multiple data sources to root out issues like identity theft, multi-dipping, and fraud across pandemic relief programs. This kind of work has advanced numerous investigations, and to date our data analytics team has used the PACE to complete 341 investigative requests for the federal oversight community.

We are also using our CARES Act authority to create new models of coordination among the federal Inspectors General. In January 2021, the PRAC and our OIG partners launched the PRAC Fraud Task Force to enable us to better coordinate investigations, to exchange information about fraud schemes that we have identified, and to share resources to enable agents to support investigations across the Inspector General community. For example, through the PRAC's Fraud Task Force more than 50 experienced investigators from 15 OIGs have been working together to investigate small business loan fraud cases. We created a hotline that has received thousands of complaints from the public that have been routed to the appropriate agencies for follow-up action where applicable. We rely on information

from whistleblowers and citizen watchdogs to help us prevent and detect wrongdoing, recover funds for the taxpayers, and hold wrongdoers accountable.

Additionally, the PRAC Fraud Task Force has uncovered fraud schemes that have provided valuable leads for the entire Inspector General community, including scams used to buy luxury cars, real estate, and cryptocurrency. Fraud in the Paycheck Protection Program, the unemployment insurance program, and the Economic Injury Disaster Loan program continue to trend among our most prevalent investigations in addition to investigations involving testing supplies, treatments, and vaccines. To date, the work of the PRAC Fraud Task Force and our OIG partners have resulted in hundreds of criminal convictions and lengthy jail sentences for wrongdoers. In one example, a federal jury in November 2022 convicted a fraudster for his role in a $10 million pandemic fraud scheme in the first PRAC Fraud Task Force case to go to trial.

We also participate, along with 30 partner agencies, in the whole-of-government effort coordinated by the Department of Justice's COVID-19 Fraud Enforcement Task Force. As of December 2022, the efforts of the task force resulted in criminal charges against more than 1,800 defendants with losses estimated at $1.3 billion, the seizure of more than $1.2 billion in relief funds, and civil investigations into more than 1,800 individuals and entities for alleged misconduct of pandemic relief loans totaling more than $6 billion.

The PRAC is also a member of DOJ's International Organized Crime Intelligence and Operations Center (IOC-2) and Organized Crime and Drug Enforcement Task Force Fusion Center (OFC), which enables the PRAC to engage in case deconfliction and share and receive investigative intelligence. The PRAC has detailed an investigative analyst to IOC-2 to work on the National Unemployment Insurance Fraud Task Force (NUIFTF) since summer 2021. Because they are often large, complex, and transnational, many cases are being worked by COVID Strike Force Teams in Baltimore, MD, Los Angeles, CA, and Miami, FL.

Pandemic fraud is a problem that affects programs across agencies, so it requires a coordinated all-of-government effort to address it. We continue to work with federal prosecutors to ensure that those who steal from these important programs are held fully accountable.

We also have undertaken several initiatives to share information and connect stakeholders with an equity in pandemic fraud. Working collaboratively with DOJ, the National Credit Union Administration, and our law enforcement partners, the PRAC has collected information about pandemic funds being held by credit unions due to suspected fraud. This data collection effort identified nearly $8.75 million that may be subject to recovery. The money comes from a variety of sources, including the Paycheck Protection Program, Economic Injury Disaster Loan program, and PUA.

Legislative Priorities

Several legislative actions will assist the PRAC in fighting fraud. We are committed to using all of the tools Congress has made available to us to hold wrongdoers accountable—including criminal, civil, and administrative actions. The 117th Congress enhanced the PRAC, IG community, and law enforcement partners' efforts to fight fraud in small business loan programs with its passage of H.R. 7352 and H.R. 7334. These bipartisan bills, signed into law in August 2022, established a 10-year statute of limitations for all forms of Paycheck Protection Program loan fraud and all COVID Economic Injury Disaster Loan fraud. The extension of the statute of limitations for fraud in these two programs was necessary given the scope of the fraud identified to date to allow our investigators the time necessary to fully pursue those who defrauded these aid programs. We also support similar extensions of the statute of limitations for fraud in other pandemic programs, including unemployment insurance. Currently, the statute of limitations for many pandemic-related UI fraud investigations will expire in 2025 as the statutes most often used to prosecute UI fraud have a 5-year limitation. Extending the statute of limitations for fraud associated with pandemic-related UI programs will help ensure investigators and prosecutors have time to effectively pursue and hold accountable those groups and individuals that targeted and defrauded the program, and that they do not escape justice.

Additionally, we encourage Congress to assist us in being able to administratively recover fraudulently diverted tax dollars by amending the Program Fraud Civil Remedies Act, 31 U.S.C. 3801 *et seq.;* Pub. L. 114-74, to raise the jurisdictional limit for administrative recoveries of "smaller" false or fraudulent claims from $150,000 to $1,000,000. To date, the PRAC is aware of at least over one million pandemic awards, totaling about $362 billion, that ranged from $150,000 to $1,000000. While the scope of the fraud for these "smaller" awards has not yet been fully determined, increasing the jurisdictional amount would ensure that we could pursue them. Bipartisan legislation to make that jurisdictional change was introduced in the last Congress but was not adopted. I am hopeful that

Congress will take up this legislation again.

Finally, it is critical that Congress consider legislation to continue the Pandemic Analytics Center of Excellence (PACE) beyond the PRAC's scheduled sunset date of September 30, 2025. In order to properly oversee federal spending, the IG community must have an effective data analytics platform.

When the pandemic hit in March 2020, no data analytics platform was available to the PRAC to assist us in our oversight work and to support IGs in the critical first year of the pandemic when federal programs were disbursing billions of dollars in pandemic relief funds. In 2021, Congress appropriated funds that allowed the PRAC to build the PACE from the ground up, leveraging leading practices and lessons learned from the ROC, and you have seen the important results that this data analytics platform is providing. The PRAC is spending about $16 million annually to operate and sustain the PACE, and the return for the public on this investment could not be clearer. Just this week's Fraud Alert alone identified potentially $5.4 billion in fraud, which is 360 times the annual cost of operating the PACE.

A sustained data analytics capability would benefit all IGs and would provide partners:

- Access to federal spending data sets for OIGs who have their own data analytics capabilities;
- A self-service analytics research platform for OIG auditors and investigators;
- Audit research and investigative tips and leads, particularly focused on fraud risks that cut across agency and program boundaries;
- Law enforcement intelligence capabilities, including open, deep, and dark web data analysis;
- CIGIE-wide investigative deconfliction and coordination; and
- Projects to deliver analytic solutions for OIGs (e.g., risk models, robotic process automation, code, artificial intelligence, and antifraud technical assistance).

The sustainment of the PACE and its capabilities will ensure that the federal oversight community is equipped with the necessary resources and data to better detect and prevent fraud across federal programs. In light of the PRAC's scheduled statutory sunset in September 2025, we urge Congress to pass legislation retaining this critical antifraud analytics center to bolster oversight of federal expenditures and to help us protect taxpayer funds and fight identity fraud. Failure to do so will result in the oversight community once again losing invaluable analytic capabilities and resources.

Thank you for your continued support for the PRAC, the IG community, and independent government

oversight. We look forward to continuing to work to ensure that federal pandemic programs are operating effectively and efficiently, and to prevent and detect waste, fraud, and abuse.

That concludes my prepared remarks, and I would be pleased to answer any questions that the Committee may have.

Chairman SMITH. Thank you for your testimony. We will now proceed to the question-and-answer session, and I will begin first.

Mr. Dodaro, your agency released an estimate of at least $60 billion in UI fraud, which I think we can all agree is scratching the surface of this problem. I know our committee, Congress, and surely the American people would appreciate GAO continuing to investigate with your resources and size and scope of the UI fraud. And you all have made such a commitment to do so.

When should this committee expect to receive an updated and more expansive review of UI fraud from GAO?

Mr. DODARO. Yes. First I want to make clear that the $60 billion estimate, as we have reported, is the low end, the low estimate. We are working on a higher-end estimate right now. We should have something available in—later this summer to discuss with the committee. We are taking two approaches. One, we are doing some modeling approaches, and we also might need to take a sample of transactions.

Part of the problem has been there has been not even an improper payment rate yet for the pandemic unemployment insurance program, which we think—and others—that has a higher level of susceptibility to fraud.

So later this summer we should have those estimates available.

Chairman SMITH. Okay. And will you commit to coming to this committee and requesting assistance, should you have any challenges getting information from the Biden Administration about UI fraud?

Mr. DODARO. Absolutely.

Chairman SMITH. Thank you, sir.

Mr. Horowitz, last year, in his 2022 State of the Union address, President Biden announced the creation of a chief pandemic prosecutor to serve as director for COVID–19 fraud enforcement, and to lead criminal and civil enforcement activities. The DoJ announced in March 2022 that Associate Deputy Attorney General Kevin Chambers would serve in that role.

My understanding is Mr. Chambers left the role in December, and the position is being temporarily filled by an acting director. We invited the acting director to this hearing, but he declined to show up.

Besides the apparently vacant role of the chief pandemic prosecutor, DoJ also runs the National Unemployment Insurance Fraud Task Force. But we have been unable to get the agency to share any updates on what the task force is doing.

U.S. House of Representatives
Washington, DC 20515

May 31, 2022

The Honorable Merrick B. Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Garland:

On March 10, 2022, the Department of Justice (DOJ) announced the appointment of Associate Deputy Attorney General Kevin Chambers to serve as Director for COVID-19 Fraud Enforcement, or the "Chief Pandemic Prosecutor." Mr. Chambers will lead criminal and civil enforcement efforts to combat COVID-19-related fraud. There have been multiple reports that fraud from COVID-19 federal spending and government benefits has exceeded hundreds of billions of dollars, though the exact figure is unknown. We write with questions about this new position.

When the Biden Administration came into office in January 2021, there was over one trillion taxpayer dollars in unspent, previously appropriated COVID-19 funds still available for obligation. Despite bipartisan calls to first prioritize these dollars—in addition to repeated warnings that spending additional money at that time was not only unnecessary, but also would likely result in harmful economic consequences—the Biden Administration enacted the $1.9 trillion American Rescue Plan Act less than two months later.

A lack of critical safeguards left COVID-19 funds vulnerable to criminal activities, theft, and improper use. The American Rescue Plan Act made business loans and unemployment funds easier to access without verification of applicants' identity or proof of financial need, putting taxpayer dollars at further risk for fraud. The Small Business Administration's (SBA) own Inspector General was wary of criminals and bad actors seeking to take advantage of the newly authorized funds. As the *Washington Post* reported, "[t]he agency's [SBA] top watchdog issued numerous warnings about its management of more recent stimulus programs adopted under President Biden."[1] In addition, the Treasury Inspector General for Tax Administration reported in May 2021 that the IRS distributed thousands of checks from the American Rescue Plan to deceased individuals, totaling $13 million. Reports of widespread identity theft schemes and

[1] Tony Romm, *'Immense fraud' creates immense task for Washington as it tries to tighten scrutiny of $6 trillion in emergency coronavirus spending*, WASH. POST (Feb. 17, 2022), https://www.washingtonpost.com/us-policy/2022/02/17/stimulus-aid-oversight-fraud/.

scams targeting our nation's seniors have estimated millions in taxpayer dollars stolen by criminals and bad actors.[2]

The American Rescue Plan Act only exacerbated the very problems the DOJ now seeks to address. Given the recent appointment of Associate Deputy Attorney General Kevin Chambers to serve as Director for COVID-19 Fraud Enforcement, it is critical for Congress to understand how this new office will function, particularly as it relates to being transparent and responsive to Congressional oversight efforts of taxpayer dollars. As such, please provide a response to the following questions:

1. The Congressional Budget Office projects billions of dollars of outlays from the American Rescue Plan through at least fiscal year 2031. Will this Director position become a permanent position at DOJ to continue to uncover the full extent of fraudulent activities?

2. The White House Fact Sheet associated with the President's announcement stated, "[t]he President will call on Congress to provide the resources needed for the DOJ Task Force . . . ."[3] Why are no funds requested for the COVID-19 Fraud Enforcement Task Force, the Director, and their staff in your Fiscal Year 2023 budget request?

3. President Biden has stated, "With a Chief Pandemic Prosecutor now in place, the Department of Justice will escalate our efforts to crack down on bad actors."[4] How will Mr. Chambers implement new practices to "crack down" more aggressively? What are the current systems in place for recouping stolen funds? Will recouped funds be credited back to their original program to be allocated without additional Congressional action, or will they be returned to the U.S. Treasury?

4. There is a dichotomy between official figures from federal departments and agencies that have been reported to Congress and outside estimates of the amount of COVID-spending fraud. When will Mr. Chambers update Congress with a breakdown of the resulting fraud from enactment of the American Rescue Plan over the past year?

5. Will Mr. Chambers no longer perform his duties as Associate Deputy Attorney General advising on corporate investigations and prosecutions and instead solely focus on COVID-19 fraud prosecution? If not, who will perform those duties?

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[2] Aruna Viswanatha and Sadie Gurman, *Alleged Covid-19 Fraud Schemes Totaling $150 Million Draw Criminal Chargers*, WALL ST. J. (Apr. 20, 2022), https://www.wsj.com/articles/alleged-covid-19-fraud-schemes-totaling-150-million-draw-criminal-charges-11650468618.

[3] "Fact Sheet: President Biden to Announce New Steps to Combat Criminal Fraud and Identity Theft in Pandemic Relief Programs," The White House (Mar. 1, 2022), https://www.whitehouse.gov/briefing-room/statements-releases/2022/03/01/fact-sheet-president-biden-to-announce-new-steps-to-combat-criminal-fraud-and-identity-theft-in-pandemic-relief-programs/.

[4] Press Release, The White House, Statement of President Joe Biden on the Justice Department Naming a Chief Pandemic Prosecutor (Mar. 10, 2022), https://www.whitehouse.gov/briefing-room/statements-releases/2022/03/10/statement-of-president-joe-biden-on-the-justice-department-naming-a-chief-pandemic-prosecutor/.

6. Do you expect Mr. Chambers to be responsive to Congress, provide all requested documents, and appear before Committees if requested without reservation?

7. What is the scope of the Chief Pandemic Prosecutor's purview? The March 10, 2022, DOJ announcement explained that Mr. Chambers "plans to focus on large-scale criminal enterprises and foreign actors who sought to profit at the expense of the American people." Does this statement mean that he will not focus efforts on fraudulent activities associated with unemployment insurance, the Paycheck Protection Program, the Economic Injury Disaster Loan Program, and other SBA programs?

8. How will the duties of this position be split with Roy Dotson, Secret Service Assistant Special Agent in charge of pandemic fraud?

9. What duties will this prosecutor perform that are not already being performed by the Justice Department and its "COVID-19 Fraud Enforcement Task Force," the Council of the Inspectors General on Integrity and Efficiency (CIGIE), the Pandemic Response Accountability Committee (PRAC), and other oversight entities?

DOJ has yet to provide any further details to Congress about the work of Mr. Chambers to prosecute fraud related to this Administration's trademark "COVID relief law" since his appointment over two months ago. As such, we respectfully request a written response to our questions or a briefing on this matter by June 10, 2022. Thank you for your attention to this request.

Sincerely,

Jason Smith
Ranking Member
House Committee on the Budget

Jim Jordan
Ranking Member
House Committee on the Judiciary

Blaine Luetkemeyer
Ranking Member
House Committee on Small Business

Kevin Brady
Ranking Member
House Committee on Ways and Means

Cc: The Honorable Gene Sperling, American Rescue Plan Coordinator

So, what is the relationship between and what coordination, if any, exists between the Pandemic Response Accountability Committee, the DoJ's chief pandemic prosecutor, and the National Unemployment Insurance Fraud Task Force?

Mr. HOROWITZ. So there is several interactions.

First of all, we have been a member of the Justice Department's task force since it was created. We attend their regular meetings, we participate in the meetings with about 30 other law enforcement agencies to make sure we are coordinated, and to make sure cases are handled as we and our IG partners are developing information.

As I mentioned in my opening statement, we have also detailed one of our pandemic response accountability analysts to the task force that deals with national unemployment insurance fraud to support that effort. And we are doing all weekend with our resources to support it.

I would have to refer you to the Justice Department for comment about when they plan to fill the vacancy. I do know that the deputy is the acting chair of it.

Chairman SMITH. Okay. Since we could not get them to come and testify, do you have any insight as to what DoJ is doing to identify and recover fraudulently paid unemployment benefits?

Mr. HOROWITZ. I do know, from our work with them and my work as Justice Department inspector general as we refer cases to the prosecutors around the country, that they are moving forward with them.

I think one of the challenges the Department is having and prosecutors are having, frankly, is triaging them and—given the resources available and the surge in cases that you have heard about from IG Turner, as well as we know from the SBA IG on PPP and EIDL-related fraud. So, I think that has been one of the challenges.

One of the reasons we have asked for an increase in the Program Fraud Civil Remedies Act jurisdictional amount is because of our concern that lower-dollar frauds may not make it through that thicket for prosecution. And we at least want to make sure we can recover the money for the taxpayers.

Chairman SMITH. All right. Any insight into whether the Biden Administration has any plan to appoint another chief pandemic prosecutor, given that—the President's prominent announcement last year at the State of the Union? Or was that just a talking point in 2022?

Mr. HOROWITZ. As I sit here, they have not consulted me—and I wouldn't expect them to—on their plans.

I would expect that to happen, and I would be happy to get back to you, Mr. Chairman and the committee, with any data or information you need from them if you haven't received it.

Chairman SMITH. I appreciate all the information.

I now recognize the ranking member, Mr. Neal, for questions —

Mr. NEAL. Thank you, Mr. Chairman.

So back to the facts. The unemployment rate, as Mr. Horowitz pointed out, in the height of the pandemic was 15.4 percent. As of last Friday, it was 3.4 percent. I think unemployment insurance worked.

Let me give you another number with facts: $849 billion, $60 billion—we know it is an estimate—that is 7.1 percent that is alleged to be fraud at the moment. We have members of the former U.S. attorney's offices here. They know how long it takes to present these cases. So as professional as this testimony has been, and we are indeed grateful for it, I am disappointed that we didn't hear from any of our hard-working people who relied upon unemployment insurance to keep their lives afloat.

From that perspective, we know that state administrators and workers, they dealt with a 3,000 percent increase in UI claims. That paints a much more complicated picture.

Let me read a note from Meredith, a MomsRising member from western Massachusetts: "UI, with the stimulus, has saved our family. It is something we never imagined we would need, but we both worked as administrators in education, one of us for study abroad companies and another finding ourselves out of work for no fault of our own but the pandemic and having a young daughter. We are extremely mindful of every penny, and we are worried about the coming months, not knowing when and if we will secure jobs. But we want to pay our mortgages as we have, and our car payments, our food, and our medical care. Please understand we live modestly, more than most people will ever know, and always been responsible, financially. Our home is small, and one of the least expensive in our town. This is the first time in our lives that we ever could imagine the possibility of not being able to pay for basic expenses. It is profoundly stressful. For now, at least UI, with the stimulus, ensured that we were able to pay our mortgage, our car payments, our insurance, our food, and for essential family services."

Mr. Turner, let me say how much I appreciate the work that you and your staff have done in trying to bring about criminal fraud rings to justice. Your work is putting criminals behind bars, and returning the money they stole from the Treasury. Let me ask you about paying for the good work that you do.

We provided immediate funding and support through the CARES Act and then ARPA, and I know that work is ongoing. You asked for $120 million from your office, and you received only $97 million in appropriation for fiscal year 2023. I will ask you in a moment if that is correct.

And last night, Joe Biden indicated that he intends to be assertive and aggressive with criminal referrals from the Justice Department.

Certainly, the proposal that we offered was not what was agreed to in Congress in the final package.

Mr. Turner, could you talk about the impact of your work, and what members of this committee should be doing to support your goals?

Mr. TURNER. Well, one of the things that we try to do with our work is to make sure that the funds that were going towards their program is actually being used, and gets down to the correct recipient.

So, for instance, the $888 billion that goes towards that program, our goal is always to make sure that we conduct audits to make sure that it is getting there effectively and efficiently, and in a

timely way, and provide oversight, independent oversight by our investigators, to ensure that they can deter any kind of fraud that may be taking place.

Mr. NEAL. Thank you, Mr. Turner. And I know that, based upon the Justice Department, what U.S. attorneys do, seldom does a would-be criminal or an individual who is suspect, if ever, walk into a U.S. attorney's office and say, "Hey, could you bring me up to date on what you are doing with me?" That really doesn't happen, does it?

Mr. TURNER. No, it takes a lot of hard work on the part of our investigators to actually go out and find the culprits.

Mr. NEAL. In sophisticated criminal rings, they clearly tried to outsmart the system regularly. So it takes the Justice Department and the good work that U.S. attorney's offices do across the country considerable time in breaking down this criminal activity. Is that correct?

Mr. TURNER. Yes. The more complex fraud is, the harder it is to capture. For instance, I think someone mentioned earlier about money mules. Money mules is one of the more complicated schemes that are out there. And so it takes some time and some investigative work to get to those—to get to the bottom of those investigations.

Mr. NEAL. Thank you, Mr. Turner.

June 2020. The unemployment rate, as Mr. Horowitz pointed out, was 15.4 percent, 20 million people had lost their jobs. The unemployment rate, as reported last Friday after the noting of all those jobs being created, is now 3.4 percent. Much of what we did really worked, and I take great professional and personal satisfaction from acknowledging there was no book on the shelf for what we were doing. And overwhelmingly, we got the American economy back on its feet.

Thank you, Mr. Chairman.

Chairman SMITH. I want to thank the gentleman from Massachusetts, and I now recognize the vice chairman of the committee, Mr. Buchanan of Florida.

Mr. BUCHANAN. Thank you, Mr. Chairman. I want to thank our witnesses for being here today. I am glad we are finally focusing on this crisis, which has been a magnet for theft and boondoggle for taxpayers' dollars.

In total, GAO has found at least $60 billion stolen funds. The DoL put the number as high as $191 billion improper payments, with a significant amount due to fraud. Outside experts estimate as high as $400 billion. So, it is something we clearly need to focus on, and figure out how to do it better.

Mr. Dodaro, let me ask you. In Florida, I can tell you it was a disaster. There were so many dollars coming in, we weren't prepared. We had low unemployment rate at the time. We didn't have the capacity, didn't have the people, didn't have the equipment. It was like the F troop. Our office is getting hammered, everybody was getting hammered in our state.

What are—where are we at today if we have another crisis and we have got to be able to move dollars quickly? Because obviously, nobody can imagine—when you talk about $800 billion, no matter how you put it out there, we don't have that kind of capacity. And

obviously, it might not be that—such a big number, but as a result of that we ended up with 300 or 400 or 200—pick a number—in fraud taxpayer monies out the door.

So give us your thought. What are we doing today to try to fix that, so it is not as bad?

And hopefully, states are getting additional money, they are going to invest some of the dollars, excess dollars they have got, to make sure that we can minimize this in the future.

Mr. DODARO. I think we are slightly better prepared, but not fully prepared for the next crisis. A number of our recommendations at the Labor Department have been not fully implemented yet. I think states are trying to make improvements. There have been some improvements that have been made, but they have all been ad hoc. There hasn't been a systematic approach to doing this led by the Labor Department in conjunction with the states. And I think that is needed.

Now, to make sure that Congress continues to focus on this issue, you know, I added the unemployment insurance program to a list of high-risk areas that we keep for the Congress and the Administration to focus on. There are 38 areas on the list now, and I am due to come up with an update across government soon. But I added the unemployment insurance area.

There are problems also——

Mr. BUCHANAN. I only—I got a couple other questions.

Mr. DODARO. Okay, go ahead.

Mr. BUCHANAN. Let me get back to you.

Mr. DODARO. Yes.

Mr. BUCHANAN. Mr. Horowitz, let me mention, in terms of organized crime, organizations outside the U.S. We have got, obviously, some in the U.S., out of Africa, and different parts. Not just this, ID and identity theft and everything else.

Where is that at today? And my thought is, how much do you estimate, and what can we get back that is—you know, it is one thing in different states, but looking at Africa and different countries around the world, they are taking advantage of the circumstances, as well.

Mr. HOROWITZ. Yes, Congressman, you are exactly right. We have—one of the biggest challenges we have is following the fraud that occurred through overseas gang activity and fraudsters. The Secret Service reported that they have seen that occur through entities in Nigeria, China, Russia, other locations. That will be our biggest challenge——

Mr. BUCHANAN. What is that dollar amount? Do you have an estimate, or any thought of it? A range?

Mr. HOROWITZ. I don't. And one of the reasons I don't, Congressman, is that is among the hardest fraud to find, to track, and figure out, because it is through overseas networks. It is a challenge.

I was a former Federal prosecutor. The process by which getting that evidence is very challenging.

Mr. BUCHANAN. I have got one more question for Mr. Turner.

Mr. Turner, let me ask you. They claim, 70 percent of businesses, if they could find workers they could do more business. That is the mindset, at least, in Florida. I think I have heard that around the

country, they can't get workers. Where are we at today in terms of getting people back to work? Because there are—you do hear—I have heard a lot of it, where people say, "Well, I don't want to go back to work. I got another six weeks of unemployment." But what is your sense of where we are at today on that?

Mr. TURNER. We have done some work in that area, and part of what we found out is that there have been instances of where people have not gone back to work. And we have asked the Department, which has put out a policy to address that and have that information reported to the states when it occurs.

Mr. BUCHANAN. Yes, I just want you—I will get you the survey, but 70 percent of companies—small business I focus on primarily, small to medium-sized businesses—claim they—if they had more workers, they could do more business. So, it is a great opportunity for them. So, anything we can do to encourage people getting back to work, setting the incentives up properly, would be really appreciated.

Thank you, and I yield back.

Congress of the United States
Washington, DC 20515

May 10, 2021

The Honorable Martin Walsh
Secretary
U.S. Department of Labor
200 Constitution Avenue, Northwest
Washington, D.C. 20210

Dear Secretary Walsh:

Since the enactment of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), and subsequent legislation, including the American Rescue Plan Act (ARPA), the federal government has pumped billions of dollars into state unemployment programs. While unemployment insurance has been a lifeline to those who have been sidelined by the pandemic, the amount of money and new programs in unemployment have become easy targets for criminals and criminal enterprises. There has been a major surge in fraud, concurringly extending to international organized crime rings and foreign actors. This is incredibly concerning.

For example, California's unemployment agency has reportedly lost nearly $32 billion[1] to fraud since the pandemic began in 2020. Conservatively assuming an improper payment rate of 10 percent for extended federal benefits under the CARES Act and subsequent legislation, at least $89 billion of the estimated $896 billion in UI program funds could be paid improperly, with a significant portion attributable to fraud.[2] In addition, ID.me, a company that works directly with 22 states to verify the identity of unemployment claimants, notes that the total amount of fraud could be between $200 and $300 billion.[3]

Section 9032 of ARPA contains a provision providing $2 billion for fiscal year 2021 to be appropriated to the Secretary of Labor and used to "detect fraud and prevent fraud, promote equitable access, and ensure the timely payment of benefits with respect to unemployment compensation programs…."[4] Given the current amount of fraud in unemployment programs nationwide, strengthening unemployment programs to detect fraud and prevent improper payments needs to be a high priority, and is key to ensuring those who need unemployment are receiving their benefits in a timely manner.

We are concerned, Secretary Walsh, about your recent testimony before the House Appropriations Committee describing the Department's FY 2022 budget request, wherein you

[1] https://fox40.com/news/local-news/timeline-from-backlogged-claims-to-billions-lost-a-look-at-the-edd/
[2] The OIG's initial pandemic audit and investigate work indicate UI program improper payments, including fraudulent payments, will be higher than 10 percent. https://www.oig.dol.gov/doloiguioversightwork.htm
[3] https://www.idtheftcenter.org/unemployment-benefits-fraud-totals-could-be-over-200-billion/
[4] Public Law 117-2, Section 9032.

stated that between $600 million and $700 million of the $2 billion, or more than a third of the total funding designated for fraud prevention, is slated for technical assistance for the states. Given the amount of unemployment fraud, including within the Pandemic Unemployment Assistance (PUA) program, it is important for us as Ranking Members on the Senate Finance Committee and House Committee on Ways and Means, and in our duty to perform oversight, to gain an understanding of how you plan to spend the $2 billion; any amounts you may have already spent; how much of any unspent funds you will devote to detection and prevention of fraud; and how funds spent on technical assistance to states will specifically lead to prevention, detection, and recovery of fraudulent payments.

This country needs timely, targeted investments to stop fraud now. For example, the Department should act to implement commonsense policies to stop the "pay and chase" model of unemployment administration, like requiring states to verify identity and prior employment of applicants before authorizing benefits. Wholesale changes to state IT systems, while often a necessary investment to make, are unlikely to generate the fraud detection and prevention efforts that are needed now, given lags between such investments and improved outcomes. Devoting a majority of the $2 billion provided in Section 9032 of ARPA to elastically-defined "technical assistance" efforts runs the risk of allowing widespread fraud to continue to fester, with fraudsters lining their pockets with taxpayer funds that Congress intends to be in the hands of deserving unemployment compensation beneficiaries.

Therefore, please provide the following by May 27, 2021:

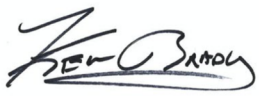
1. Evidence of outlays from the $2 billion provided in ARPA for, among other things, fraud detection and prevention.
2. A detailed spending plan with a description of what fraud detection and prevention measures you are currently funding, amounts spent on those measures to date, and amounts you intend to fund moving forward.
3. A detailed description, including amounts already spent and amounts of intended spending moving forward, on efforts:
    a. At the Department of Labor in Washington, D.C.; and
    b. In each state and territory.
4. A timeline for, and metrics by which you will measure the efficacy of, spending on fraud and detection, as well as fraud prevention efforts.
5. A detailed description of amounts spent, and when the expenditures occurred, on provision of "technical assistance for the states" and precisely what activities such assistance represents.
6. A list of meetings Department of Labor officials have had on fraud detection and fraud prevention since the inception of the CARES Act with officials and investigators from the Department of Labor's Office of Inspector General.

We appreciate your attention to this matter.

Sincerely,



Mike Crapo
Ranking Member
Senate Committee on Finance



Kevin Brady
Republican Leader
Committee on Ways and Means

Chairman SMITH. I want to thank the gentleman from Florida, and now I recognize the gentleman from Texas, Mr. Doggett.

Mr. DOGGETT. Thank you, Mr. Chairman.

Three years ago, with this devastating COVID–19 pandemic, there were millions of Americans who found themselves not only in a public health emergency, but an economic emergency. Through no fault of their own, a sudden termination of their paycheck, they found themselves jobless and unable to meet basic needs. Almost overnight, it was a necessity to get access to unemployment insurance to save their families from collapse.

I think it is very appropriate, Mr. Chairman, that this committee exercise its oversight responsibilities to safeguard taxpayer dollars from thieves and fraudsters.

Such fraud is hardly limited to the unemployment insurance program. Indeed, I have never found a line item for waste, fraud, and abuse in the Federal budget, but I have found fraud committed and challenged and prosecuted for everyone from defense contractors to pharmaceutical companies. Indeed, this very week the New York Times reported that three of the five largest Medicare Advantage insurance companies in the industry have been accused of fraud by the Justice Department.

But what we don't need is selective interest in fraud that seems to be more focused on the unemployment insurance program, which is vital to our country and our families, than about fraud which occurred in it. Indeed, that selective enforcement was apparent with the very first piece of legislation that our Republican colleagues offered this year, when they seemed to have so little interest in fraud in our tax system that they enacted legislation to undermine law enforcement, even though it added $114 billion to our deficit.

I believe that, as we consider this program, we have to consider not only the way the program was administered—and it needed to be administered with less misconduct—but also the people that were helped by that program and the challenges that they face. An example is a fellow that my office helped in Austin, Bill Tarabula. And Bill is a parking attendant in Austin. And when all the events shut down at the city facilities, he lost his job. He contacted my office in March of 2020, and it wasn't until August of 2020 that we were finally able to get him the assistance that he needed.

The administration of the program—and there has been focus on what the Department of Labor might have done better under the Trump Administration and the Biden Administration. But the administration of the program in Texas was a disaster. The program was under-staffed. When it was apparent that the program was not up to the task, it failed to add staff. I had people that would set their alarms at 2:00 or 3:00 in the morning, because they were told that was the only time that they could get through to get unemployment benefits, and they couldn't get through.

So, it is not a surprise to me that Texas, that failed so significantly to meet the needs of worthy people, was not doing its job on the fraud side, either.

I believe that, Mr. Dodaro, you have outlined things that could have occurred and prevented some of this fraud. Because while the prosecution is important, it never gets back all the dollars that are lost that should be avoided through prevention.

Now, of the many steps that you recommended ought to happen to prevent unemployment fraud in the system at the Department of Labor, did the Trump Administration implement any of them?

Mr. DODARO. Not fully at all. In fact——

Mr. DOGGETT. Yes——

Mr. DODARO [continuing]. We did a survey across government, and the Labor Department reported to us that they were familiar with the fraud framework, but they were not at a mature level. When we went in and looked, and did more detailed work, we found they were way short of implementing best practices to prevent fraud.

Mr. DOGGETT. And in the Biden Administration I believe that not all of your recommendations have been fully implemented yet, but haven't there been a number of additional resources, additional dollars that were provided through the American Rescue Plan Act to try to see that we address this problem?

And in addition to acknowledging the funds that have been allocated, what do you feel is the most important step the Biden Administration Department of Labor should take to try to see we never have this happen again?

Mr. DODARO. Yes. The Labor Department has put some guidance out, some tools that have been available. They have established an identity verification approach, and provided some grants to states, but they haven't—all of those have been ad hoc. There hasn't been a systematic approach.

What we call for is designating a fraud entity full-time to focus on this, do fraud risk profiles, develop an anti-fraud strategy, and then to evaluate how well it is working, and then continuously make improvements.

The nature of fraud changes dramatically, and you need to stay abreast of what is going on, and we need to prevent this. As you point out, you—this is a cultural shift that we have been trying to advocate across government. Because when people think of fraud in the past, they think of the inspector generals or GAO or others to catch the crooks. But you don't catch everybody, and you don't certainly recover all the money.

The only way to effectively deal with this is to prevent it up front. And when you have more technology available now to do cross-matches, to use different tools that are available, you should be able to get the money out quickly, but also safeguard the Federal fisc.

Mr. DOGGETT. Thank you very much.

Chairman SMITH. I want to thank the gentleman from Texas, and now I recognize the gentleman from Nebraska, Mr. Smith.

Mr. SMITH of Nebraska. Thank you, Mr. Chairman. Thank you to our witnesses. This is a very timely conversation that I will say should have happened some time ago, but did not.

But in February 2022, the Biden Administration issued guidance allowing states to forgo due diligence and fact-finding for large volumes of suspicious unemployment claims, potentially involving billions of fraudulently-obtained taxpayer dollars. The guidance provides multiple loopholes for how states may apply blanket waivers of recovery of overpayments.

For example, a state may accept without challenge that an individual who responded "no" to being unemployed, partially unemployed, or unable or unavailable to work is entitled to a waiver of recovery of overpayments, with no determination as to whether the individual was truthful in their response. This potentially allows those perpetrating fraud within the UI system to continue, and leaves hundreds of thousands of unresolved claims involving stolen identities belonging to identity theft victims, including first responders, government personnel, and school employees.

Mr. Chairman, I would like to submit for the record a letter that Ways and Means Republicans sent to the Department of Labor on February 18th, 2022, nearly a year ago, requesting an immediate stay of the effective date of this guidance, and an explanation of how the Department would ensure the guidance would not undermine existing investigations.

Chairman SMITH. Without objection, so ordered.

[The information follows:]

Congress of the United States
Washington, DC 20515

February 18, 2022

Delivered via E-mail

The Honorable Marty Walsh
Secretary of Labor
200 Constitution Avenue, NW
Washington, DC 20210

Dear Secretary Walsh,

On February 7, 2022, the Department of Labor's Employment and Training Administration (ETA) issued *Unemployment Insurance Program Letter (UIPL) No. 21-21, Change 1,* addressing program integrity issues related to the unemployment insurance (UI) programs under the Coronavirus Aid, Relief, and Economic Security Act (CARES). The letter allows states to apply blanket waivers to forgo recovery of overpayments in pandemic unemployment programs using seven different loopholes, including failure to provide documentation of eligibility.

Allowing use of blanket waivers would let states off the hook for due diligence and fact finding for large volumes of suspicious unemployment claims potentially involving billions of fraudulently obtained taxpayer dollars.

ETA's guidance not only ignores the prevalence of fraud but is issued under dubious legal authority. **We write to request an immediate stay of the effective date of this guidance and an explanation of the agency's legal authority,** including whether ETA consulted with the Office of the Solicitor to ensure legal authority exists, and if ETA consulted with the Department of Justice's National Unemployment Insurance Fraud Taskforce or the Labor Department Office of Inspector General (OIG) to ensure this does not undermine existing investigations.

ETA's action is particularly reckless in light of White House estimates of improper payments in the Federal-State UI program of an astounding 19 percent equating to an estimated $78 billion fiscal year 2021.[1] This partial estimate does not include the period of the greatest fraudulent activity when generous $600/week and $300/week federal supplements made unemployment a lucrative target for fraudsters. In total, Federal and state spending on enhanced pandemic unemployment benefits reached more than $850 billion in less than two years.[2]

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[1] White House, Updated Data on Improper Payments, December 30, 2021.
[2] U.S. Department of Labor: https://oui.doleta.gov/unemploy/docs/cares_act_funding_state.html

ETA's public statement on the new UIPL suggests that expediency is overriding integrity. Program integrity cannot be sacrificed for expediency. It is well documented that throughout the pandemic, criminal organizations, including international cybercrime rings and opportunistic foreign actors, used stolen identities to falsely claim unemployment benefits. Fraud delayed legitimate payments and turned thousands of Americans into unwitting identity theft victims.[3][4][5]

Now is the time to pursue and prosecute fraudulent actors. Instead, this guidance equates to sweeping under the rug what is possibly the greatest theft of taxpayer dollars in American history.

ETA provides multiple loopholes for how "states may apply blanket waiver of recovery of overpayments." For example, ETA's UIPL accepts without challenge that an individual who responded "no" to being able and available for work is entitled to a blanket waiver of recovery of overpayments with no determination as to whether the individual was truthful in their response. It appears self-certification and individual assertions are the cornerstone of the repayment waiver. This action may allow those perpetrating fraud within the UI system to continue and leaves unresolved hundreds of thousands of claims involving stolen identities belonging to identity theft victims, including first responders, government personnel and school employees.

To date, ETA has fifty-six recommendations for corrective action from the DOL-OIG. Improper payments are a historical issue that this UIPL does not seek to correct.[6] The problem is only exacerbated by the lack of coordination between the OIG, state agencies, and ETA.[7] The OIG has issued repeated alerts to the deficiencies of ETA's management of the UI program through state entities.[8] ETA's lack of attention to these alerts and the billions of dollars in fraud raises significant concerns about the agency's ongoing management of the program and ability to combat fraud.

Even more concerning, the February guidance has the potential to significantly undermine ongoing pursuit of perpetrators of fraud and the ability to gain restitution for taxpayers. The Department of Justice, Pandemic Response Accountability Committee, U.S. Secret Service, and OIG all have numerous active ongoing investigations involving pandemic unemployment fraud. According to OIG, since the start of the pandemic, the agency has opened more than 31,000 investigative matters relating to UI benefits paid under the CARES Act and is in the process of reviewing an additional 137,000 complaints from the National Center for Disaster Fraud. As a result of the surge in complaints, UI investigations now account for 92 percent of the OIG's investigative case inventory, compared with 12 percent prior to the pandemic.[9]

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[3] "DOL-OIG Oversight of the Unemployment Insurance program," U.S. Department of Labor, Office of Inspector General, February 3, 2021.
[4] "COVID-19: Critical Vaccine Distribution, Supply Chain, Program Integrity, and other Challenges Require Focused Federal Attention," Government Accountability Office, January 28, 2021. (GAO-21-265)
[5] "Massive Fraud Against Unemployment Insurance Programs, U.S. Secret Service, Information Only Alert, May 5, 2020.
[6] https://www.oig.dol.gov/public/reports/oa/2021/04-21-001-03-315.pdf
[7] https://www.oig.dol.gov/public/reports/oa/2021/19-21-006-03-315.pdf
[8] https://www.oig.dol.gov/public/reports/oa/2021/19-21-002-03-315.pdf
[9] https://www.oig.dol.gov/doloiguioversightwork.htm

We request an immediate stay on the effective date of *UIPL No. 21-21* to better understand the agency's legal authority and decision making used to create these broad categories for blanket overpayment waivers. **Please provide responses after each question instead of a narrative format by February 28, 2022.**

- To reduce hardship on individuals who may have been victims of identity theft or agency error, CARES Act provides limited authority for states to waive, on a case-by-case basis, overpayments in pandemic unemployment programs if the overpayment was through no fault of the individual. What legal justification or rationale did the Department use to construe this limited authority to mean ETA could use administrative discretion to create seven broad categories of blanket overpayment waivers?
- Did ETA conduct an economic analysis of this UIPL's impact? If so, please provide a copy of that analysis. If not, why?
- What is ETA's overall estimate for the number and dollar value of claims that fall into each of the five new waiver categories? Please provide a state-by-state breakdown of these two data points for each of the 53 UI systems.
- Provide the date on which the states added the list of COVID-19 qualifying reasons to their initial PUA claim application? And the date states began approving COVID-19 related to the PUA claim application?
- How does the Department plan to reduce friction in State Workforce Agencies' ability to validate self-employment or independent work earnings?
- Did ETA consult with the OIG to determine the impact of this UIPL on current investigations? If yes, please provide all communications or documents received from the OIG on this topic. If not, why?
- Does this UIPL address any of the OIG's outstanding recommendations to fix ETA's administration of the unemployment insurance program?
- Does ETA has a plan to address any of the OIG's outstanding recommendations to fix ETA's administration of the unemployment insurance program?
- Did ETA consult the Office of the Solicitor to ensure the legal authority to create these waivers exists? If yes, please provide a copy of any legal opinions provided by the Office of the Solicitor. If not, why?
- What role did the Office of Unemployment Insurance Modernization play in development of this policy?[10] And where is this office currently housed and reporting?

[10] https://fcw.com/digital-government/2021/08/new-labor-dept-office-will-focus-on-ui-modernization/259101/

Thank you for your attention to this matter.

Sincerely,



Richard Burr
Ranking Member
Senate Health, Education, Labor and Pensions Committee



Kevin Brady
Ranking Member
House Committee on Ways and Means



Mike Crapo
Ranking Member
Senate Finance Committee



James Comer
Ranking Member
House Committee on Oversight and Reform



Rob Portman
Ranking Member
Senate Homeland Security and Governmental Affairs Committee

Mr. SMITH of Nebraska. Thank you. In their response to our letter, DoL said that the guidance was developed in response to requests from states, which were "seeking greater efficiencies in the use of limited government resources. States noted that it was taking a significant amount of time and resources to process waivers on a case-by-case basis for overpayments."

DoL also responded that the guidance specifically instructed states that they may not waive overpayments due to fraud. This response was far from reassuring. In fact, DoL's response increased my concern regarding this waiver policy, which is still in place today, because it suggests that states were dealing with a backlog of suspicious claims, and DoL provided an easy opportunity for them to forgo the investigation and fact-finding needed to know whether they were fraudulent in the first place. It further eliminated any incentive for states to track down fraud.

This action is particularly reckless in light of White House estimates the Federal and state UI program had a 22.2 percent improper payment rate for fiscal year 2022.

Mr. Turner, my question is for you. One of the questions we asked in our letter was whether DoL consulted with your office before issuing this guidance. Given the OIG's work on ensuring recovery of taxpayer dollars, I would like to understand how your work will continue, now that this guidance is in place and, in particular, any impact on your ability to initiate and conduct investigation and prosecution of fraudulent activity in pandemic unemployment programs.

My understanding is that this is part of your revised pandemic oversight plan.

Mr. TURNER. Thanks, Representative. Let me just say we do plan on doing some work on fiscal year 2023 to review that policy. It was a policy the Department made. It was a policy that was a programmatic decision, which we do not have any oversight of at that point.

Because that was their decision as—independence, we have oversight at the end of the day. But they did consult—they did not consult with us. They made us aware that this is what they were doing with the policy. And so, because we could not advise them, we did make it a point to take a look at that, because we do believe that there is a possibility that fraud could take place, although they did tell us that they were going to put a waiver out. And we expect to take a look again before the year is out.

Mr. SMITH of Nebraska. Okay, thank you. And how many of these waivers have been issued, and is DoI collecting the data at all, or is it just not ending up where it needs to go?

Mr. TURNER. At this point we do not know how many waivers have been issued, as far as across the country. But that is why that work is so important as we take a closer look at it.

Mr. SMITH of Nebraska. And so, I mean, there is no way to know up until this point?

Mr. TURNER. Well, we were asked to take a look at it. I think, last fiscal year, and we decided to put that on our audit plan this year. So, in the spring we are going to take a look and find out just the extent of the problem.

Mr. SMITH of Nebraska. Okay, I thank you.

And Mr. Chairman, I hope that, you know, in light of the circumstances of COVID, and I think well-intended efforts on the part of this committee and, you know, this Administration, the previous Administration, everyone involved at the time, that we can avoid the bad things that happened previously.

I worry that, after last night's speech, we are in a worse place perhaps than ever before in terms of what we need to do and what we need to accomplish working together.

Thank you, I yield back.

Chairman SMITH. I couldn't agree more, Mr.—Representative. The taxpayers deserve that.

I am pleased to recognize the gentleman from California, Mr. Thompson.

Mr. THOMPSON. Thank you, Mr. Chairman, and I want to thank the witnesses for being here today and for the great work that you do in your public service.

As was stated, starting in March of 2020, the spread of COVID–19 crippled the global economy. We lost 22 million jobs in this country, 2.7 million of those from my home state of California, 22 million lives disrupted, 22 million individuals wondering how they were going to pay their bills or put food on the table, as Mr. Neal's constituent letter gave credence to.

In response, Congress acted in an unprecedented bipartisan manner to quickly deliver desperately-needed relief to families, workers, and businesses across all of our communities. This included a temporary payment increase for unemployment benefits, and emergency relief for small businesses such as restaurants. It is estimated that these measures kept more than 5 million people out of poverty in 2020, and 6 million more in 2021. Because of what we did, our constituents were able to pay their rent, purchase groceries, and keep the lights on.

And these dollars were spent locally, multiplying across the community, keeping businesses open. This support provided vital—support proved vital to our communities and foundational to our economic recovery. Because of our efforts, by July 2022 all jobs lost during the pandemic had been recovered. And just last Friday, the Bureau of Labor Statistics reported that the unemployment rate was 3.4 percent, the lowest since 1969.

Sadly, my Republican colleagues are using today's hearing to smear a critical benefit to American workers, rather than propose any sort of agenda or idea on their own to address these issues.

Fraud happened. No one is disputing that, and no one on this dais supports fraud. I think fraud is bad, and we should go after it in this case and in any other instance. But my Republican colleagues seem more interested in disparaging the underlying program.

Every single House Republican voted against the $2 million for states and Federal agencies to fight fraud and recover those taxpayer dollars that we are talking about today. These are the very tools that enabled our witnesses today to do their good work, to crack down on this fraud. It is important. Unfortunately, this sounds less about Republicans preventing fraud and more about them, as I said, disparaging a program that kept millions of fami-

lies afloat, and provided a powerful stimulus to our economic recovery.

Mr. Dodaro, during the pandemic, unemployment insurance gave 8,665,000 Californians, including thousands of my constituents, a critical lifeline by keeping them out of poverty until it was safe to return to the workforce. What did the dozens of high-quality research studies GAO reviewed say about the effect that providing UI benefits during the pandemic had on our economic stability?

Mr. DODARO. Yes, we looked at 30 empirical studies that have been done and found that it was very helpful. The conclusion of the studies was it was very helpful for supporting the economy, keeping the problem from getting worse, and actually providing a lot of assistance to individual people to, as has been mentioned, pay rent, health care, et cetera.

Mr. THOMPSON. Thank you very much.

Mr. Horowitz, you said something in your statement that really caught my attention. You said it is your desire, your mission, your agency's efforts to hold accountable these people that defrauded our government and took this money.

I have yet to see many programs where—private or public sector—where fraud isn't in existence. And we see—you can walk across the parking lot out here in the Capitol and see where the bricks that they put in when they remodeled don't match, and they are all chipped. I was at the board in El Paso last week, and I saw where the contractor who built the wall didn't put cement in the iron pilings, and they are able to cut right through them.

Are you going to be able to hold these fraudsters accountable and get back a lot of this money?

Mr. HOROWITZ. Congressman, you are right. When you have programs, no matter what the program is, you are going to find fraud.

There were several things with the various pandemic programs that exacerbated it, like self-certification and, as we have talked about, lack of preparedness, given what occurred, when it occurred, and how it occurred.

Having said that, we are using every tool Congress has given us—and you have given us a number of important tools—to go after fraud. We are going to use criminal tools, we are going to use civil tools, administrative tools, suspension, and debarment. We are going to use all of those.

It is very important, though, that some of those be enhanced, as I mentioned, with the extension of the statute of limitations——

Mr. THOMPSON. I understand. Thank you for the work, thank you for your answer, and good luck.

Mr. HOROWITZ. Thank you.

Chairman SMITH. I want to thank the gentleman, and I am pleased to recognize the gentleman from Pennsylvania, Mr. Kelly.

Mr. KELLY. Thank you, Mr. Chairman. Thank you all for being here today.

You know, so this hearing is supposed to be about fraud. We can't do anything unless we get away from policy and talk about politics, because we always got to play this game about who struck John. In the meantime, hard-working American taxpayers are the

ones that put all this money into this system that was stolen from them.

Can any one of you—Mr. Dodaro from Monessen, Pennsylvania, home of the Greyhounds—can any of you tell me what the amount of the fraud is?

Mr. DODARO. We have estimated in the unemployment insurance area, at the low end, $60 billion. We are working on a higher-degree estimate.

We are also trying to—and this has never been done before—do an estimate as to the total amount of fraud across the entire Federal Government. And we are working on that. Maybe later this year we will have an estimate if we can have comfort in it.

Mr. KELLY. So just a ballpark, you are saying 60——

Mr. DODARO. Well, it is $60 billion, at a minimum, and just in the unemployment insurance area.

Mr. KELLY. Okay, so it is, you know, a billion here, a billion there. Pretty soon it gets really heavy.

Mr. Turner, any—just give me an idea what the amount of fraud is.

Mr. TURNER. We have estimated it to be about $76 billion, and that is based on the latest data that we received from the Department.

Mr. KELLY. Okay.

Mr. TURNER. The Department had 8.5 as the fraud rate that they just released based on $888 billion for the program. So, we believe, at the low end, it is $76 billion.

Mr. KELLY. Seventy-six billion?

Mr. TURNER. Yes.

Mr. KELLY. That is with a B. Okay.

Mr. Horowitz.

Mr. HOROWITZ. Congressman, what I have said before is, with all of the investigations we have ongoing, as well as the overseas work we still have to do, it is way too early for us to give an estimate. What I have said is I am—it is in the tens of billions of dollars. You have heard these numbers.

Mr. KELLY. Yes.

Mr. HOROWITZ. It won't surprise me if it exceeds $100 billion. And as we go along over the next several years, we will get a better sense of exactly the scope of the fraud.

Mr. KELLY. Okay. Well, the real intention, I think, of the meeting today, which our chairman pointed out, is we wait too long to look into what is happening with hard-working American taxpayers' money.

Every—all this fraud lands on the same shoulders that it always lands on, and that is our taxpayers. And I get so fed up to come into meetings where all we do is point fingers about who struck John, and never come up with the answer to what the hell are we doing to fix this.

Nobody in the private sector would run a business this way, and I am constantly baffled by the people who own this, why they are not outraged.

I am not blaming any of you for what you are doing. I think you get in here every day—Mr. Dodaro, I still wonder, why are you spending so much of your life doing all this? You are dedicated to

it, and I get that. But when we have these hearings, what the hell? We are talking about—we are up to our neck in alligators, and we are trying to find out who was supposed to drain the swamp. In the meantime, this is being funded by people who get up every day, some working two jobs and their wife helping out, working another job to put food on the table and a roof over their head.

We have so many huge problems with this business model, and we know that nobody in the private sector could possibly run a business like this, because they can't borrow endlessly, or they can't print it if they need it. This is an irresponsible model that continues to burn through hard-working taxpayers' pockets, and we are sitting about—is it a Democrat problem or is it a Republican problem? Damn it, it is an American problem.

Mr. Dodaro, you wanted to——

Mr. DODARO. Yes. I continue to pursue my public service to be the taxpayer's friend.

Mr. KELLY. God love you.

Mr. DODARO. At GAO we return $145 to every dollar spent on us over the last five years, on average.

Mr. KELLY. Yes, yes.

Mr. DODARO. This is a problem, regardless of the administration. In a few months I will be—have worked at GAO for 50 years. I have seen this problem over a period of time.

[Applause.]

Mr. DODARO. Thank you. I hope to make it.

Mr. KELLY. Yes, you are going to make. You are from around the Pittsburgh area, and we are tough.

Mr. Dodaro. But I have—and in my statement today—10 legislative suggestions——

Mr. KELLY. Yes.

Mr. DODARO [continuing]. For Congress.

First of all, in any new program or an increase in spending over 100 million, $100 million, it ought to be immediately susceptible to improper payments, given the problem we have. Right now, programs can be in operation two or three years and never estimate the amount of improper payments. This just doesn't make sense. And some of these programs will fully expire before you even know early on.

And I have got other legislative solutions. So, there are things Congress can do to make this better.

Mr. KELLY. You know what? First of all, I have run out of time. Thank you for what you have done with your life. It is just incredible, the service you have been to the American people.

I would tell my colleagues; I don't care if you wear a red shirt or a blue shirt. Start thinking about wearing red, white, and blue, and stop pointing fingers at each other.

I know I am going beyond what you have given me, Mr. Chairman, but if we don't stop what we are doing right now—and look, let's fix the model, instead of trying to figure out who it is that dropped the ball. You know, and we can't do it, because every two years we come up for election, and we got to make sure that we can still get that one more vote than who we are running against, as opposed to let's fix this damn thing.

Okay, Mr. Dodaro, thank you. Mr. Turner, thank you. Mr. Horowitz, thank you for coming here, and thank you for what you are doing. You guys are incredible. Thank you.

Chairman SMITH. Representative, when you were talking about the hard-earned taxpayers and small business owners, it made me think of Ashley Bachman, our—one of our witnesses at our hearing on Monday in West Virginia. She was asked the question, "If you operated your business like Washington, what would happen?" And Ms. Ashley Bachman said, "We would have to close our doors down." And that is from a real small business owner, and a real American.

Mr. KELLY. Yes, you know——

Chairman SMITH. So, based on your testimony, it made me think of that.

Mr. KELLY. Yes, yes, thank you. But I am a small business owner. I—third generation, and I remember one time we were talking about Tax Cuts and Jobs Act. I made the comment that it was four times in my life that I didn't pay any taxes at all, and the rest of the committee looked at me and said, "Well, how the hell did you do that?" I said, we lost money that year.

Chairman SMITH. That is right.

Mr. KELLY. So, if you have a model that works, you use it.

But I really do, I am imploring all of us. It is not about red and blue. It is not about Rs and Ds. It is about the people who elected us to come here and act in their best interest. So, I appreciate this. We have so much to look into and so much to get done, because we are accountable to so many people who just fund this incredible model.

So, Mr. Chairman, thank you. Witnesses, thank you so much.

Chairman SMITH. Thank you.

Mr. KELLY. I really appreciate you being here.

Chairman SMITH. Thank you, Representative. I would like to recognize the gentleman from Oregon, Mr. Blumenauer.

Mr. BLUMENAUER. Thank you, Mr. Chairman. I think this is an extraordinarily valuable hearing and exercise to give us a sense of what the challenges are. And frankly, it has been an amazing reminder for me of what we were going through during that fraught period.

I was going to my office at 7:00 in the morning, trying to deal with people who were desperate because they couldn't crack the unemployment system. And that, frankly, we—all hands on deck for that. These people were in danger of losing their business, losing their homes. They were frantic that they couldn't get through. Now, this was a state failure. The Federal Government gave money. Texas wasn't the only state. I heard this around the country. You probably had that experience in your office, dealing with desperate people.

And so, this hearing helps us set the context, and is a powerful reminder for me of what we were going through, being overwhelmed by demands, a 3,000 percent increase in unemployment insurance claims. That is the reality that we were facing. On balance, I think I am appalled at the amount of fraud that occurred. But given the urgency, trying to help desperate people, I understand why we were there.

The question is, how do we make sure that we are no longer there?

Mr. Dodaro, you mentioned that you gave recommendations to the previous Administration, and couldn't find, in the midst of this, that they were moving forward.

I agree with Mr. Kelly. I am not interested in pointing fingers one way or another. But I do think it is important that we don't lose track of the hard work of oversight, that we claw back every dime that we can, and that we are prepared for the next contingency, because it is coming. We know that. And we can learn from those valuable lessons.

I think it is important, however, to put some of these things in context. My friend, Mr. Kelly, wondered how the business model continues the way we are doing it. I would like to offer one other area. There is 6—there is $468 billion to $600 billion a year of taxes due and owing that we are not collecting. It is up to $7 trillion over the next 10 years. There is no business in your district that would sustain losses on that order of magnitude with the accounts receivable, with the accounts receivable. We know where that fraud—it is fraud, cheating, breaking the law—is. It is interesting that higher earners like partnership income, proprietorship income, rental income—non-compliance can reach 55 percent.

Now, I hope that the indignation that we are expressing towards a program that was meant to save desperate people, that that can be transferred to an area of much greater loss. There are some people that think maybe we ought to threaten default on the national debt because they are concerned about deficit spending. This is up to $7 trillion. That is not new taxes, it is not cutting programs. It is collecting money that is due and payable to the Federal Government, and it is keeping faith with the hard-working majority of people who actually pay their taxes.

So, I hope that we keep this spirit of concern for oversight and economy, and zero in on the people who cheated the Federal Government on unemployment insurance. But I hope there is still an air of indignation about the far greater source of lost revenues from, primarily, rich people who forget to declare their income. That is even more important, and this is an ongoing loss of revenue, 500, $600 billion a year that is lost.

Mr. Kelly, we can't keep doing business if we are not collecting money that is due and payable. That is not keeping faith with small businesspeople that you represent or I represent. So, I hope we can make this a constructive effort on oversight, but that we have a broader sense of responsibility and reclaiming lost revenue.

Thank you. I appreciate your indulgence.

Chairman SMITH. Thank you, Representative. I recognize the gentleman from Arizona, Mr. Schweikert.

Mr. SCHWEIKERT. Thank you, Mr. Chairman.

Mr. Turner, I appreciated reading over your testimony, but I could really use your help in—and I know there is unknowns here. So, your number of either fraudulent or missed payments, was that number—what, I was seeing $198 billion was the estimate?

Mr. TURNER. A hundred and ninety-one.

Mr. SCHWEIKERT. Okay, 191. And if the program was about $800 billion, so your number is—about 20 percent of all the pay-

ments that went out essentially got tagged in some fashion or other of being a mispayment or being fraudulent.

Mr. TURNER. That is correct.

Mr. SCHWEIKERT. First off, how comfortable are you with that 198—or, excuse me, 191, I want to make sure I quote you properly. It is—what is the model in your head, from your researchers, that say that number could be more? Or is it less?

Mr. TURNER. Well, I believe that is—we believe that is the low end, and we believe that number could be more, because that does not include the PUA, which dealt with the self-certification in the first nine months.

Mr. SCHWEIKERT. Okay, you beat me to my punch line, so—you take away my shtick. But there is where I want to go. What is their—let's go on the—way outside of the tail on the curve.

Mr. TURNER. Okay.

Mr. SCHWEIKERT. What do they think it could be, total?

Mr. TURNER. I have no way of knowing that. I know the Department——

Mr. SCHWEIKERT. Is it potentially double?

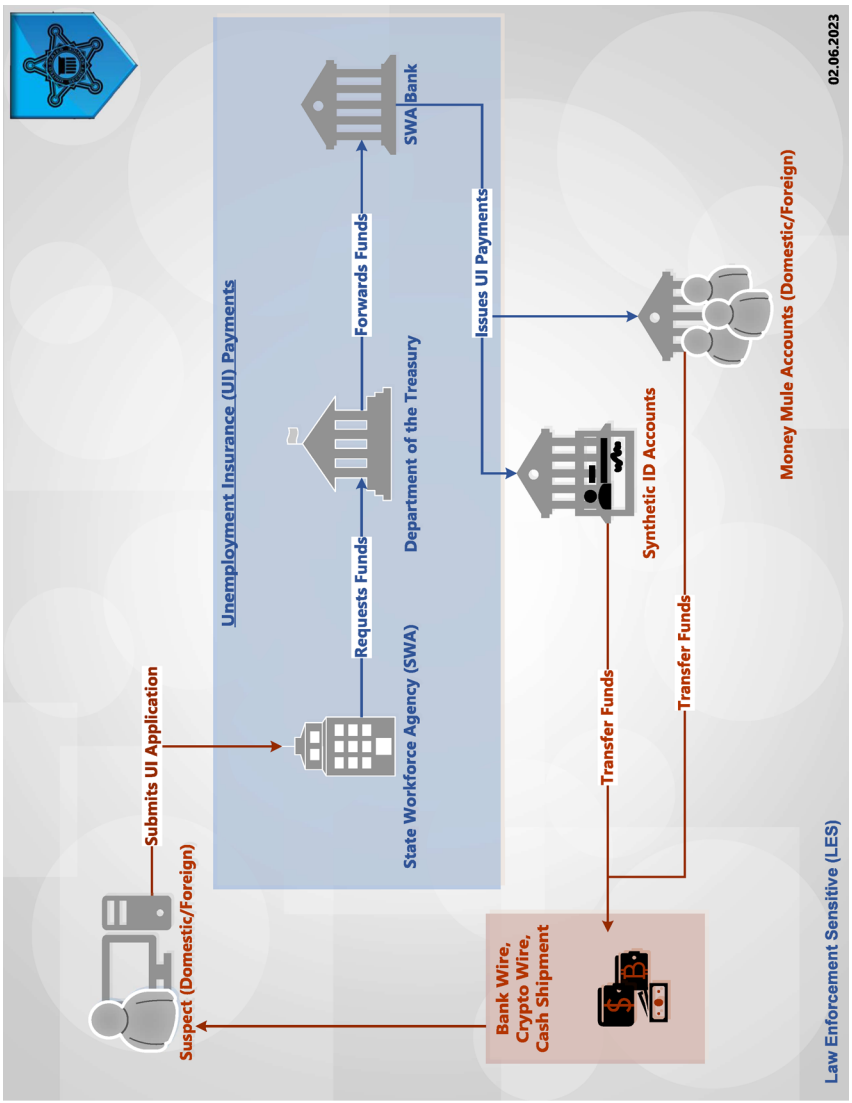
Mr. TURNER. I have no way of knowing that. The Department is planning on putting out the rate for the PUA at the end of the year.

Mr. SCHWEIKERT. Okay.

Mr. TURNER. And so that would give us a better understanding of what the number may look like.

Mr. SCHWEIKERT. You see, one of the things that angers me in our hearing right here—and we are all sinners here—is I never want this to happen again. And I wish we would have a much more detailed conversation of, okay, so we see a couple hundred billion dollars, mispayments, we believe a substantial number of that is fraud, and the number could be substantially higher than that. How do you do it?

At some point—and I am going to ask from my inspector general and others, send me a little chart. Send me a booklet. Send me something so I can understand. How is the fraud committed?


Unemployment Insurance (UI) Payments
Submits UI Application
Suspect (Domestic/Foreign)
State Workforce Agency (SWA)
Requests Funds
Department of the Treasury
Forwards Funds
SWA Bank
Issues UI Payments
Bank Wire, Crypto Wire, Cash Shipment
Transfer Funds
Synthetic ID Accounts
Transfer Funds
Money Mule Accounts (Domestic/Foreign)
Law Enforcement Sensitive (LES)
02.06.2023

I actually want to understand down to the mechanics the syndicates that flooded when—my wife, who was running a fairly large surgery center in Scottsdale, Arizona was getting dozens every day of unemployment claims for people who had never worked at her surgery center. It was particularly interesting when she got an unemployment claim for herself, when she is running the surgery center. She brought that home, and thought that was actually—she wanted me to fix it.

And I am just losing my mind because the numbers of folks we had calling us saying, "I am running a business, and I am getting unemployment claims dramatically more than the number of employees I have ever had," is that buying data sets off the dark web? Is that the Office of Personnel Management data breaches?

Where did they get the—first, the data sets? Did they write bots that automatically kept filling out applications?

Then, when the checks went out, how did they get people to actually get those addresses, collect the checks?

How do they convert those checks to cash? How did that cash actually turn into bitcoin or something else? How did it get offshore?

Help us understand the mechanisms in the fraud, because if we are going to stop it, I know we have two things—and forgive me for rambling, a lot of coffee today—I understand much of what we look at, we need a revolution of the data, and this is the data from the IRS, to this and that. We need to understand that data is actually the solution.

But I also want to understand how the criminal networks stole billions and billions from our people. I mean, am I asking something—it is too difficult?

Mr. TURNER. No, you are not. Actually, it was a combination of a lot of things you mentioned. But it all mostly starts with stolen identification.

When self-certification took place the first nine months, there was no kind of verification required to say that you deserved those payments, and that was part of the problem the IG notified the Department about, because we sent an alert memo out. We said we also briefed the members——

Mr. SCHWEIKERT. But Mr. Turner, I am less concerned about the bureaucracy telling this person, telling that person. I am—right now want to understand the mechanism.

If—I had my state unemployment offices, and we had made it so they had access to commercial data sets. I mean, commercial data sets out there know what type of ice cream I used to eat, and my favorite flavor. You know, they have—our ability to say we are going to do red light-green light, bounce off the types of data out there, is it is our failure to understand the technology that is all around us because we are still promoting archaic systems?

Mr. TURNER. Well, let me give you a better example that would probably help clear this up.

So, for instance, stolen Social Security numbers, a lot of time you can buy them on the dark web for $0.05. And so, a lot of this is multi-state claims that have been filed. In one case we had an individual file in 42 different states, and they are getting that money back in terms of debit cards. So, it is cash to them, and that is hard to kind of keep track of.

And so, over time, when you start getting organized crime and street gangs involved in this, those numbers multiply.

Mr. SCHWEIKERT. That—Mr. Chairman, thank you for your patience with me. I think it would be fascinating, either from Oversight Committee or full committee, I would love to bring in some of the perpetrators of the crime, you know, who have been convicted. You know, we have done it before. Bring them in, sit them in here, say, "Tell us how you stole billions of people's money," and we understand what the hell is really going out the—on—in our neighborhoods.

Thank you, Mr.——

Mr. TURNER. And if I could just add one thing, Mr. Chairman, I will give you an example how that took place. For instance, we identified $45.6 billion—million dollars—billion dollars, I am sorry, in potential fraud. And it happened because they sold the Social Security numbers of deceased individuals, federal inmates, multiclaims, and suspicious emails. And that was potentially what took place. And we shared that information with the states.

Mr. DODARO. Mr. Chairman, if I might ask for an indulgence?

Chairman SMITH. Very quickly.

Mr. DODARO. For years I have been trying to get Congress to pass legislation to allow the Treasury Department to get the total Death Master File from the Social Security Administration. I was finally successful during the pandemic to do the data matching that should have been done beforehand to prevent people from—deceased people from receiving payments and allowing people to exploit this.

I am still making a recommendation to expedite that because Congress gave three years before it became effective. And it is only permanently in place for——

Chairman SMITH. All right——

Mr. KELLY. I can buy that data right now on my laptop.

Chairman SMITH. Mr. Schweikert——

Mr. KELLY. I mean, it exists right now.

Chairman SMITH. Yes——

Mr. DODARO. Not the complete one.

Chairman SMITH. We need to move on. Thank you very much. Let's recognize the gentleman from New Jersey, Mr. Pascrell.

Mr. PASCRELL. Thank you, Mr. Chairman. Mr. Chairman, today's hearing on the monumental and lifesaving investments we have made during the pandemic, it is important.

My friend from Arizona, could it—I agree with much of what he has said. But we are not going to throw out the program, it seems both sides are saying in between words, because there is fraud in the program. But you need to do something about it to get rid of the fraud.

No one up here is advocating fraud, stealing, breaking the law. So, we change it. We presented changes in the original program that we are talking about today. We know who voted for it and we know who voted against it. Just remember that.

I think Congress acted decisively and in a bipartisan way in the face of an historic crisis to keep America safe. Our unemployment, our aid kept families together and saved lives. That is a big deal.

More than 1.5 million Garden Staters—New Jersey folks—received unemployment benefits from March 2022 to September 2021. It stopped mortgage defaults. It kept the electricity on, believe it or not. It put food on tables and in children's stomachs.

In March 2021 we passed the American Rescue Plan. Where were we? Because the crisis continued. It included unemployment and strong enforcement protections. President Biden used those protections to prosecute frauds. You either voted for it, or you voted against it, or you didn't vote. States recovered nearly $100 million. Enforcement was working.

Republicans claim to care about misuse. I agree, we should all. But every Republican Congress voted for the Trump-Mnuchin plan that did not have fraud protections, and every Republican voted against our fraud protections. It is the record. You can't change that every other day, or show us a different perspective of it. You either did it or you didn't do it.

Our plan kept people alive, one of the most successful laws ever enacted. Last month our economy added over half-a-million jobs. Job growth is at a 40-year high. You have heard the chairman—the ranking member—say that many times. Unemployment is at the 54-year low, and the Biden economy isn't doing so bad. Every job lost during the pandemic was recovered. All our economic output lost is regained. Our pandemic measures exceeded expectations. We emerged stronger than any other country.

You know, the problem of inflation did not happen—I want to announce this—did not only happen in the United States of America. Thank you.

I am happy to work together to ensure Federal dollars are spent and spent well. Frauds need to be held accountable and prosecuted. But this hearing isn't about fraud. This hearing is about shaming workers and lying about our strong economy. You didn't one moment last night choose to recognize that.

The truth is our actions saved lives and saved the American people. And I say, Mr. Chairman, that this is a very good hearing, because not only are we bringing some facts out today, both sides, but we go back into the history of the program we are talking about and looking at those facts.

And I yield back to the chairman.

Chairman SMITH. I want to thank the gentleman.

I want to remind the committee that this hearing is about fraud. It is clearly not about shaming any worker. In fact, every dollar going to fraud is a dollar that did not go to those who needed it. And that is our responsibility, as Members of Congress, to make sure that taxpayers' dollars are going to the right places. So, it is clearly about fraud.

I am pleased to recognize the gentleman from Texas, Mr. Arrington.

Mr. ARRINGTON. Thank you, Chairman. Thank you, witnesses.

I have heard repeatedly comments from my colleagues that no one here on the committee is advocating for fraud. I agree. I don't think fraud is acceptable to a single Democrat or Republican.

But if we are going to talk about the facts, the fact is there was $1 trillion still unspent from the previous COVID relief package that was bipartisan. There were several bipartisan relief packages

that we worked on together. And the Democrats, my colleagues, went alone with $2 trillion. And the facts are we repeatedly, repeatedly warned them about not including guardrails, the ounce of prevention that would be the cure for pounds—tens, if not hundreds of billions of dollars—in improper payments and fraud and waste. And they did not heed. Not a single amendment.

I mean, we must have had hundreds of amendments. Not one amendment was taken. I understand their commitment, and I understand the extenuating circumstances. And I, quite frankly, understand the need for speed and some of the mess that comes with that. But we were way down the road from needing to rush something, when we had $1 trillion still unspent, and we had learned from the previous mistake of paying people too much, where they were, literally, perversely incentivized to stay at home and off the payroll. That was a mistake, but it wasn't acknowledged. It wasn't included in our counsel, and that was a huge mistake.

And there weren't guardrails so that we could get ahead of this on the front end. We knew there was a lot of money, and we knew that, with 150 some-odd billion dollars in improper payments already, as has been discussed, this was going to be a disastrous waste of taxpayer money. That is poor stewardship. It just is.

So, there is a saying that used to be on a sign outside of our former head football coach's office at Texas Tech, the great Mike Leach. And it said, "You are either coaching it or allowing it to happen." It is a statement of accountability. You are either coaching it directly, or you are indirectly allowing it to happen.

So yes, I don't think that you, any of my colleagues on the other side of the aisle, advocate for fraud. But they allowed it to happen, and they didn't take our common-sense counsel because they wanted to jam a partisan bill, no matter how good their intentions were, through the process, and taxpayers have paid mightily.

Were people helped? Sure. I am certain they were. You can't throw $1 trillion, almost, at a problem and not help somebody, for heaven's sakes. That is not the question. The question is, are we acting as leaders of the greatest country in the world, and as stewards on behalf of the greatest people in the world? The answer in this regard is no, we failed.

I am sure my party has had their shortcomings along the way, and I will try to readily concede when we do. That was a failure on your part. Let's not repeat it. For heaven's sakes, can't we agree on just that fact, if we are concerned about facts? The facts are that we turned the trampoline into a trap, and the safety net into a hammock because of these policies.

I got 43 seconds. The debt is amassing at an alarming rate. A crisis related will be catastrophic. Mr. Dodaro, you know that as well as anybody on this dais. We have to recoup this money. Every year I hear the same numbers. We got to get our arms around the 150 or the 160. In 2021, it was $280 billion. But nothing ever happens. What are we going to do to recoup America's hard-earned money so that we can help reduce the spend, bend the debt curve, and save this country from a much bigger crisis than what we have experienced even in the pandemic, and maybe even any crisis to date?

And I took all the time, but if he would just—Chairman, if you would indulge Mr. Dodaro just to make a quick response?

Chairman SMITH. Proceed, please.

Mr. DODARO. Congressman Arrington, I have said for a long time and written that the Federal Government is on an unsustainable long-term fiscal path. I recommended that we put a plan in place to have guardrails, a debt-to-GDP ratio, some kind of framework for guiding future decisions.

I have also recommended changes to the—how we set the debt ceiling issue. I think that there is a better way to do it at the time revenue and expenditure decisions are made in the beginning that avoids a potential cliff crisis.

I have also said that we have problems on both ends of revenue. As was mentioned earlier, we have got a tax gap exceeding $400 billion that is not coming in. It should be, under current tax law. We are sending out 200 billion that shouldn't be sent out.

And so, we have got a lot of problems. We have got a lot of recommendations to deal with these issues. And I think these implementation issues of current policies can be done a lot better and more effectively to protect the taxpayers and to deal with our long-term deficit and debt issues.

Chairman SMITH. Thank you. I thank the representative. I recognize the gentleman from Illinois, Mr. Davis.

Mr. DAVIS. Thank you, Mr. Chairman. As I listened to my friend from Texas, I was reminded of a saying that the Panthers used to use, and that was: "you are either part of the solution or you are part of the problem."

Between February and May 2020, Illinois lost almost 1.8 million jobs, with over half-a-million workers left jobless in the Chicago area alone. Our swift bipartisan response to pass the CARES Act prevented unthinkable hardship for millions of people in Illinois and tens of millions across the nation.

No one should get away with criminal fraud, which is why I was proud to help provide the Biden Administration and the inspectors general with dedicated fraud-fighting resources in the American Rescue Plan, resources that led to over 1,500 defendants being criminally charged, and the recovery of billions of dollars.

The actions of these criminals should not distract from the fact that pandemic unemployment insurance kept an estimated five million people a year from falling into poverty, met revenue and customers for businesses that were still open, allowed workers at high risk COVID to stay safer during a pandemic that disproportionately killed Black and Brown people.

My staff and I took thousands of calls from constituents who needed help. The Chicago economy relies a great deal on tourism, hospitality, and the arts, all of whose workers needed pandemic unemployment benefits to survive.

I am disappointed that we do not have the opportunity today to hear from workers who relied on UI during the pandemic. So let me just share a story from Bonnie in Chicago, and here is what she said: "We are a dual freelancer home in the theater/TV industry, with two children. We had to file unemployment for the first time in our lives. Our industry is shuttered for the foreseeable future, with no end in sight. And with the huge unemployment rate, no-

body has even called us for an interview, let alone a job offer. Without the extra boost, we would be unable to cover the mortgage, pay our bills, our health insurance, which is all out of pocket, or keep our kids fed. I think we qualified for something paltry, like $500 a month in unemployment, which covers virtually nothing, with the high cost of living in Chicago."

I am deeply proud that the pandemic unemployment assistance provided relief during a crisis, and I reject this Republican concern for fraud when they remain silent when the Trump Administration failed to implement GAO's anti-fraud recommendations, and when they opposed the anti-fraud funding that this committee's Democrats secured.

Mr. Dodaro, in the Rescue Plan, we put $2 billion in there to help states by giving grants to them. Could you measure what this program actually does, and what it did?

Mr. DODARO. The program is intended to help with—combat fraud, also to look at ways to make sure there is equity in the program, to deliver customer service, more timely payments.

We also found some disparities in the amount of payments that were going to different racial groups, and we are, in our continuing ongoing work, going to be looking specifically at what the two billion was used for, and we will be reporting to the committee.

Mr. DAVIS. Thank you very much. Congratulations on your long tenure.

And, Mr. Chairman, I yield back.

Chairman SMITH. Thank you, Representative. In regard to the $2 billion that the gentleman from Illinois just mentioned about, I actually asked my Department of Labor in the State of Missouri to ask if it worked. And I would like to submit for the record this letter that she presented.

It says more—one of the lines in it says, "More recent funding opportunities, such as the Equity and Tiger Teams grants, provided limited flexibility to address program integrity and ongoing fraud prevention strategies.

Without objection, I would like to put it in the record.

So ordered.

[The information follows:]

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MICHAEL L. PARSON
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ANNA S. HUI
DEPARTMENT DIRECTOR

MATTHEW S. HANKINS
DEPUTY DEPARTMENT DIRECTOR

February 6, 2023

The Honorable Jason Smith, Chair
House Ways and Means Committee
1139 Longworth House Office Building
Washington D.C. 20515

Dear Chairman Smith:

Thank you for the opportunity to share the Missouri Department of Labor & Industrial Relations, Division of Employment Security's experience in administering and combatting fraud in the unemployment insurance (UI) and federal CARES Act programs throughout the duration of the COVID-19 pandemic.

Missouri's Governor declared a state of emergency on March 13, 2020, and Missouri entered into an agreement with the United States Department of Labor (USDOL) to administer the federal CARES Act program on March 28, 2020. In a span of only three weeks, Missouri realized an increase of over 3000% in unemployment insurance claims. In addition to the historic increase in workload, the combination of state and new federal programs expanding eligibility and dramatically increasing monetary benefits, rapidly evolving federal guidance, rampant media coverage, and misinformation made for an extremely challenging environment for program administration.

Federal programs, such as Pandemic Unemployment Assistance (PUA), initially only required self-attestation to qualify and allowed individuals to backdate their PUA claims, lacked the checks and balances inherent within the state's regular Unemployment Insurance program that are a key component of program integrity. Additionally, eligibility for a single dollar of benefit under any unemployment program automatically qualified the individual to receive a substantial supplemental Federal Pandemic Unemployment Compensation (FPUC) payment, inviting and incentivizing individuals and bad actors to attempt to collect benefits to which they were not entitled. Constantly changing guidance for the CARES Act programs added to the burden by creating additional workloads, complexity and confusion. For example, PUA guidance from the USDOL was amended four times in a period of less than 6 months, and much of the amended guidance applied retroactively to the beginning of the pandemic assistance period for claims already processed.

Fortunately, in 2016 Missouri replaced its legacy mainframe system with a modernized unemployment insurance application. Prior to the pandemic, Missouri had existing identity verification and fraud detection tools in place. This gave Missouri the ability to address the CARES Act program implementation challenges and successfully identify potential threats and prevent both small and large-scale fraud attacks that plagued some states, with nationwide estimates of potential fraud overpayments exceeding $45 billion according to the USDOL – Office of Inspector General (OIG). However, in response to unprecedented fraud attacks, Missouri continuously reviewed and

modified its fraud detection tools and methods. As a result, funding administered by the USDOL for improved program integrity was mostly leveraged for the provision of additional staffing resources to address the increased volume of work and support enhancement of the existing technologies.

More recent funding opportunities, such as the Equity and Tiger Teams grants, provide limited flexibility to address program integrity and ongoing fraud prevention strategies. The Equity Grant is focused on improving recipiency and equitable access to the UI program. The Tiger Teams grant identifies three focus areas to be addressed, "equity and access, backlogs and timeliness, and integrity." Bad actors are constantly striving to find new innovative ways to defraud benefit programs and avoid detection. As such, Missouri must continue to innovate and invest in fraud prevention strategies and tools that prevent our states and our citizens from becoming the next victims. The existing use, at the federal level, of the Resource Justification Model for funding UI administration and one-time grant opportunities, fall short in meeting this need. Therefore, prioritization should be given to consistent funding that not only permits states to implement proven strategies and tools to combat fraud but also provides states the ability to support and maintain these solutions into the future.

Missouri will continue to place UI program integrity as a critical priority. I appreciate this opportunity to share Missouri's experience with the challenges we faced administering the federal programs throughout the pandemic.

Sincerely,



Anna S. Hui
Department Director

Chairman SMITH. I would like to recognize the gentleman from Oklahoma, Mr. Hern.

Mr. HERN. Mr. Chairman, thank you for hosting this important hearing. It has been a long time coming.

Let me be clear that unemployment fraud is not a new issue. However, no one here can deny that since the start of the pandemic the number of fraudulent claims has skyrocketed. I know I am not the only one here who has experienced this firsthand.

Now, I first shared my story during a roundtable hosted last year by my Republican colleagues on this very topic. From their lack of action, it is increasingly evident that the Democrats, my Democratic colleagues, are—still aren't grasping the scope of this issue. So let me show you.

So, this right here is a box, a 27-pound box that I had my staff go dig out of storage, had my folks back home dig out of storage. And it represents, from March 2020 to April 21, 789 fraudulent claims on an employee base of 324 employees that my family business had happen to them, just 14 months. And yes, as the ranking member said, this was prior to the current Administration. But that should make it all the more important of why we need to investigate the fraud that is going on across America.

The American taxpayer does not care who is in the White House. They want to know where their taxpayer dollars went, and did it go to not any Americans at all, did it go to places like India and elsewhere around the world, as we knew what went on?

These 789 fraudulent claims were of people that never worked for me, ever, in 25 years of business had never worked for me. And had we not done due diligence on every single claim, they would have been paid out.

Now, I will tell you, when you look at this, we also had people who had been continuing to work that got 1099s saying they were not working. And yet we still do not want to have an adult conversation about what really went on with hundreds of billions of dollars of fraud across this country in the UI program.

And so, when we talk about this, I really want to get to the idea and the thought of why we can't have and why we haven't had—I think some of you have mentioned this—that the closer we can do this—and I know that one of you all mentioned that we should have these conversations while we are doing the programs, and recognize that when you are really just passing out hundreds of billions of dollars, some would argue trillions of dollars, in the time that has happened to us in the last 24 to 30 months, that we have the propensity, and when it is fairly mandated, that we are going to have fraud.

We should acknowledge that, and we should do our job—it shouldn't be political, it should be bipartisan—to sit down and talk about where this fraud is that.

Now, I will tell you that we know that this unemployment insurance system is deeply flawed. It has been around since 1935. People have figured out how to beat the system. It has happened. We see it. This is a testament to it. Anybody is more than welcome to look at it. You can't take pictures, because it has Social Security numbers on it, but you can take a look at them and see what we are talking about.

You know, when we look at the issue that we talked about with workers not working, it is a fact that we know that we send out hundreds of billions of dollars, incentivizing people beyond the time when some states were going back to work, with no discernible difference in the outcome of the COVID pandemic. And yet people in the State of Oklahoma were funding fraudulent claims in places like California and New York—and no offense to my friends, but that is where the largest amounts of—just from the sheer population—the fraud occurred. And I have to answer to my friends and my constituents back home in Oklahoma why it is okay that the United States Congress cannot hold a hearing on fraud, and they have to continue to have their taxpayer dollars being paid out in fraudulent claims.

Mr. Turner, what motivation do states have to mitigate fraud, when the burden of loss falls on the Federal Government?

Mr. TURNER. Well, first, I think there is an incentive. And part of what the Department is trying to do is also offer up a policy of getting a five percent return on when fraud is pointed out, and have that fraud returned back. So, I think that is part of the incentive I know the Department is trying to do, and we concur with that, that has been part of their recommendations, because that would help them pursue it a little more vigorously.

Mr. HERN. So, in following up to that, what has been done to hold the most negligent states accountable, so that the hard-working people of states like Oklahoma aren't paying the price?

Mr. Turner. Well, I think the Department has really reached out to all states, in trying to hold them accountable. I mean, with our work, we really don't care what state someone is in. But when there is fraud that occurs, and once it is identified, we work with our law enforcement partners around the country to try to address it.

Mr. HERN. Any reforms you see we should be doing so that we don't have this happen again?

Mr. TURNER. Well, here is the biggest problem, in my opinion. The biggest problem is that, as the OIG, we make a lot of recommendations. And if you look back over the history, even 10 years ago, some of the recommendations that came up this time are the same problems that went unaddressed, whether that be our antiquated IT systems or whether it be lack of staff training. Those are things that we have identified.

And with this new program that was out with PUA, there was some states that—the officers were not trained properly or didn't know, and in some cases they waived that requirement because there was a lack of understanding of how the process worked.

Mr. HERN. I would like to thank the witnesses, and I yield back.

Chairman SMITH. Thank you, Representative. I would like to recognize the gentlelady from the State of California, Ms. Sánchez.

Ms. SÁNCHEZ. Thank you, Mr. Chairman, and good afternoon to the gentlemen on our panel. I want to thank you for your testimony today.

How to stop fraud is a very important issue, but so equally important is how to provide help to families during a once-in-a-century pandemic. Mr. Dodaro, did you receive unemployment insurance at any point through the pandemic?

Mr. DODARO. No, although I would——
Ms. SANCHEZ. Okay.
Mr. DODARO [continuing]. Note for the record someone filed a claim in my name.
Ms. SANCHEZ. Okay, I am just asking if you did.
Mr. DODARO. And the GAO people——
Ms. SANCHEZ. The question was whether you did or not.
Mr. DODARO. Okay. [Laughter.]
Ms. SANCHEZ. Thank you.
Mr. DODARO. All right.
Ms. SANCHEZ. Thank you.
Mr. TURNER, did you receive unemployment insurance at any point through the pandemic?
Mr. TURNER. No, I did not.
Ms. SANCHEZ. Thank you.
And, Mr. Horowitz, did you receive unemployment insurance at any point during the pandemic?
Mr. HOROWITZ. No, I did not.
Ms. SANCHEZ. Thank you, gentlemen. I asked that question because it is increasingly apparent that this panel is missing a critical perspective: someone who actually did receive unemployment insurance after losing their job. Republicans refused to hear from working families who received this critical earned benefit when they had nowhere else to turn.

Throughout 2020, my district office was inundated by constituents desperate for a helping hand. Many of them contacted my office as a last resort, saying they were about to forgo food, rent, or their mortgage payments after losing their job. When my colleagues and I worked across the aisle to unanimously pass the CARES Act, we got pandemic relief out the door as fast as possible.

Was it perfect? No. But we wanted and needed to help folks survive. And you know what? It worked. At the start of the pandemic, one of my constituents reached out to my office. She was an older woman who had just lost her job and was caring for her mother in hospice. Her UI benefits were the only source of income that allowed her to keep the heat on for her dying mother. Without this Federal money, she, along with about five million more people, would be living below the Federal poverty line.

This critical lifeline also disproportionately helped older Americans, less educated workers, and Black and Brown workers.

The point is that Federal unemployment insurance during the pandemic was overall a major success. Again, was it perfect? No. But it kept families fed, it kept families housed, it allowed my constituent and her mother to continue living in dignity.

We had to act fast. And no, we were not always surgical in what we did, but we learned from our mistakes. But today my Republican colleagues want to highlight the program's shortcomings, particularly fraud.

After the passage of CARES, the GAO made several anti-fraud recommendations to the Trump Administration. President Trump failed to implement any of these basic safeguards, placing American tax dollars at risk.

My Democratic colleagues and I worked to address the criminal activity, while recognizing the vulnerabilities in our state UI sys-

tems. The reality was that the agencies were chronically underfunded and under-staffed. UI agency workers in my home state of California went from working 8–hour days to 14–hour days, 7 days a week. Democrats worked to close that resource gap.

Through the American Rescue Plan, we dedicated fraud-fighting resources, while ensuring we were not harming critical benefits for American workers. As a result, the Biden Administration has already prosecuted over 1,500 defendants who are accused of fraud.

Again, not a single Republican voted in favor of these fraud-fighting provisions. Now they want to use the first hearing of this committee in power to talk about the problem that they initially refused to solve.

We cannot discredit a critical earned benefit that 1 in 4 American workers legitimately needed in 2020. So, let's not allow the action of criminals to distract us from the fact that pandemic UI saved millions of American families.

And before I close, I would ask unanimous consent, Mr. Chairman, to enter into the record a letter from the American Federation of County, State, and Municipal Employees, which represents many of the dedicated state employees who worked overtime and more to pay workers UI benefits that they needed during the pandemic. They were not allowed to be heard at today's hearing, so I hope that all of my colleagues will read their letter and listen to the voices of the workers that they represent.

Chairman Smith. Without objection, so ordered.

[The information follows:]

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We Make America Happen

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Elissa McBride
Secretary-Treasurer
Vice Presidents
Jody Barr
New Britain, CT
Denise Berkley
Albany, NY
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#194-22

February 8, 2023

The Honorable Jason Smith
Chairman
Committee on Ways and Means
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Richard Neal
Ranking Member
Committee on Ways and Means
U.S. House of Representatives
Washington, D.C. 20515

Dear Chair Smith and Ranking Member Neal:

On behalf of the 1.4 million members of the American Federation of State, County and Municipal Employees (AFSCME), I am writing with respect to the February 8 hearing entitled, "The Greatest Theft of Taxpayer Dollars: Unchecked Unemployment Fraud." I request that this letter be included in the record of the hearing.

As you assess the economic challenges that our country faced during the COVID-19 pandemic, we encourage you to consider the extraordinary positive impact that unemployment insurance (UI) benefits had on workers and their communities during an unprecedented time. Congress and the federal government took swift action in a bipartisan way to expand unemployment insurance programs in response to COVID-19. As initial UI claims jumped from over 200,000 to over 6 million in a three-week period in March 2020 and remained above 1 million for all UI programs for more than a year[1], UI and Employment Service (ES) workers delivered benefits and services to millions of applicants and beneficiaries. These benefits were delivered despite decades of underfunding of state administration of the UI program and the information technology (IT) programs that support the program. From 1999 to 2019, on an inflation adjusted basis, federal funding for state administration of UI declined 30%[2]. This large funding decrease occurred alongside a dramatic increase in the U.S. population and workforce.

During the peak of the COVID-19 pandemic, unemployment insurance kept Americans out of poverty and kept local economies afloat. In 2020 alone, UI benefits prevented 4.7 million more people, including 1.4 million children, from living below the

[1] DOL Unemployment Insurance Weekly Claims Database: https://oui.doleta.gov/unemploy/claims.asp
[2] National Employment Law Project: Understanding the Unemployment Provisions of the Families First Coronavirus Response Act: https://www.nelp.org/publication/understanding-the-unemployment-provisions-of-the-families-first-coronavirus-response-act/

American Federation of State, County and Municipal Employees, AFL-CIO
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poverty line[3]. As many as 46 million individuals received unemployment payments in 2020, meaning that 1 out of 4 workers in America benefited from these vital programs. In 2021, government estimates suggest that UI benefits kept 6 million Americans out of poverty[4]. Without the bipartisan cooperation to support American workers and families during COVID-19, the hardship faced by our country and our economy would have been far greater.

AFSCME members staffed the front lines of the COVID-19 pandemic to help our country recover. One of the many roles that our members fill is in the Employment Service (ES), the cornerstone of the New Deal and critical in the ES/UI partnership. We represent merit-based state ES workers who play a vital role in UI eligibility determination and continuation, reemployment services, and work search assistance. Across multiple studies, reemployment services and UI work search requirements, which are part of the work test conducted by state merit ES staff, have been shown to shorten the amount of time that a worker is unemployed. In addition, these services can produce higher earnings gains, especially for women[5]. By supporting the merit-based Employment Service and UI workers, Congress is in turn supporting effective, efficient and equitable delivery of UI benefits and employment services.

One of the many important lessons of the COVID-19 pandemic is to listen to front-line workers. AFSCME members serving in the Employment Service in several states reported that flawed IT systems created opportunities for cybercriminals to hack into systems. States either ignored or did not seek the advice of front-line UI and ES workers when the states were building their IT systems or when front-line staff identified these IT systems' flaws after they were already in place. During the pandemic, the CARES Act allowed states to outsource UI staff to respond to the surge in UI claims. Some states contracted this work to private companies that provided little or no training and lower pay to outsourced staff who, without sufficient training or support, made significant mistakes. This created additional work for already overworked, overstressed state merit staff who had to fix outsourced staff members' errors. This lack of training and accountability caused high turnover among contracted staff and supervisors, corruption, and payment delays for the claimants. Despite these challenges, the UI and Employment Service workers still delivered a staggering number of benefits to millions of Americans. These benefits in turn kept local economies afloat.

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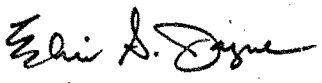
[3] Center for Budget and Policy Priorities: Historic Unemployment Programs Provided Vital Support to Workers and the Economy During Pandemic, Offer Roadmap for Future Reform: https://www.cbpp.org/research/economy/historic-unemployment-programs-provided-vital-support-to-workers-and-the-economy

[4] https://www.cbpp.org/research/economy/historic-unemployment-programs-provided-vital-support-to-workers-and-the-economy

[5] Marios Michaelides, Eileen Poe-Yamagata, Jacob Benus, and Dharmendra Tirumalasetti, "Impact of the Reemployment and Eligibility Assessment (REA) Initiative in Nevada," January 2012, https://wdr.doleta.gov/research/FullText_Documents/ETAOP_2012_08_REA_Nevada_Follow_up_Report.pdf. The study showed a decrease in weeks of duration that was greater than in any other state. The state accomplished this by requiring merit ES staff to conduct the entire work test. In other states, non-merit Workforce Innovation Opportunity Act (previously Workforce Investment Act) staff administer some of these services. For additional evidence of REA's success, see Stephen A. Wandner, "Solving the Reemployment Puzzle: From Research to Policy," W.E. Upjohn Institute for Employment Research, Kalamazoo, MI, 2010, https://research.upjohn.org/up_press/205/.

As the Committee moves forward in its important work to assess the Unemployment Insurance system, we urge you to listen to the trained and experienced merit-based UI and Employment Service workers that keep this system running. Congress should support and fully fund the merit-based UI and Employment Service workforce so that the Unemployment Insurance system is even better prepared for the next public health emergency or economic downturn. Our American workforce deserves strong UI and ES programs to support them when they need it most. We are here to assist the Committee in their important work on behalf of America's workers and the Employment Service.

Sincerely,



Edwin S. Jayne
Director of Federal Government Affairs

ESJ:LM:dmg

Ms. SÁNCHEZ. Thank you, and I yield back.

Chairman SMITH. Thank you, Representative. I would also like to thank the representative for highlighting why it is so necessary that we have numerous future oversight hearings to look at how we can make sure the integrity of the programs this committee has jurisdiction over to continue to operate appropriately and fairly.

I would like to recognize the gentleman from Georgia, Mr. Ferguson.

Mr. FERGUSON. Thank you, Mr. Chairman. And I would just like to point out that this is, in fact, our second hearing that we have had, not our first. And I think there were so many members on the other side that did not attend the first hearing that maybe it just slipped their mind. So, I will just point that out.

I also want to address the insinuations that we have not—you know, that we are going after the individual citizen here. This—listen, this was a huge program. We sent out money. This place, D.C., decided to shut down the country, and we knew we had to do something to help our fellow Americans. And we did. But then we went back to the well again when it was unneeded. And when we had an opportunity to put guardrails on it, we failed to do so.

Now, I just think that is where we need to recognize and we need our colleagues on the other side to get serious about the oversight, and quit coming after Republicans when it is not right. So I get that off my chest.

Mr. TURNER, in this program I think you said $191 billion in estimated fraud. Is that right?

Mr. TURNER. That is correct.

Mr. FERGUSON. All right. And you have recovered $105 million of it?

Mr. TURNER. No, I didn't say we had recovered 105. We actually, as far as the Labor OIG, we have $905 million that we have not recovered, but monitored results.

Mr. FERGUSON. A hundred and five million? Is that—I am——

Mr. TURNER. No, 905 monitored results. And what that is, is there may be court cases or admin or civil resolutions to some of that, and some of it takes time to actually see that the funds——

Mr. FERGUSON. All right.

Mr. TURNER. Yes.

Mr. FERGUSON. So, of those cases, what do you—how much do you anticipate recovering? What is a good estimate? Do you have any idea of what that may be?

Mr. TURNER. Let me make sure I understand your question.

First of all, let me just clarify. It is $191 billion that we say is improper payment. And there are—76 of that is what is expected to be the fraud rate.

Mr. FERGUSON. Okay, 76 is——

Mr. Turner. Yes.

Mr. Ferguson. Okay, I just—I am trying to get—make sure I have got the numbers right——

Mr. TURNER. All right.

Mr. FERGUSON [continuing]. On there. Okay. And you said you have exhausted all of the funds that Congress allocated to you for those efforts. Did you—did I hear you say that correctly?

Mr. TURNER. No, you didn't hear me say that, but we are on the verge of doing that, the——

Mr. FERGUSON. On the——

Mr. TURNER [continuing]. $38-and-a-half million that the Labor OIG was given for oversight. Yes, we are close to exhausting those funds.

Mr. FERGUSON. Okay. So, then there was another $2 billion that went for fraud prevention. Is that—am I right on that number, as well? And we——

Mr. TURNER. I think you may be talking—are you talking about the $2 billion?

Mr. FERGUSON. Let me refer that—$2 billion?

Mr. DODARO. Yes, there was $2 billion that was given. It could be used for fraud, it could be used for customer service, it could be used for these Tiger Teams that went in. So, it was multiple uses that——

Mr. FERGUSON. Okay.

Mr. DODARO [continuing]. That was that amount of money, yes.

Mr. FERGUSON. All right. It just seems like the amount of money we are spending on that isn't getting a really good return on investment, overall, okay, if you—the way I look at it. All right. So, we have got to be more efficient in that.

Now, we have talked an awful lot about fraud, okay? And as we have said, all Republicans and Democrats up here, I think everybody in America except the people committing the fraud are against fraud. But there is a whole other part here, which is improper payments, okay?

Now, we have been going after fraud, but we haven't really talked about the improper payments. And one of the things I would like to hear very briefly from you today about is the improper payments. How did that happen? Why did it happen? And has anybody been held accountable there?

We talk about holding the criminals who committed fraud there, but what about the ineptness of a bureaucracy that is just simply not doing its job, and issuing out hundreds of billions of dollars in improper payments? Because, again, improper payments, as the chairman said, a dollar that goes to the wrong spot is not a dollar going to the right spot.

So, in some regard—I don't know that we have got so much a Republican or Democrat problem, I am—we may have a bureaucrat problem, because it has gone on for two administrations.

So how does—how do the improper—what is the biggest problem with improper payments? How are you going to fix it? And who is going to be held accountable for that, Mr. Turner?

Mr. TURNER. So again, part of the—let me just clear what improper payment is, so everybody will be on the same page. Your improper payments are whenever a benefit is paid incorrectly. That could be the amount, or it could be overpayment, underpayment, or else it could be going to the wrong person. So that is the improper payment. And fraud is a subset of improper payments. So, I just want to make sure that I clear that up.

And as far as what we are doing, we are having our audit work to take a look at that. I mean, we have had 11 audits that we have completed throughout the pandemic. We have another 17 that are

ongoing, and we have 3 that are in the works. So, we are taking a look at that, and that is how we are holding the Department accountable.

Mr. HOROWITZ. Can I——

Mr. FERGUSON. I am out of time. But if the chairman will grant Mr. Horowitz a——

Mr. HOROWITZ. Can I just——

Chairman SMITH. Proceed.

Mr. HOROWITZ. Briefly on that point, I think one of the things that is important to keep in mind—I know Mr. Dodaro speaks about this a lot—these are—we are only talking about 54 programs being managed by 50 states, the District of Columbia, and 3 territories.

It is very important to include in this discussion the National Association of State Workforce Agencies and state auditors. They are the ones on the front line, because states are doing it differently across the country. Some are doing better than others. I think it is very important, as we think about this program going forward, how much control should be at the Federal level; how much should be decentralized, as it largely is, to the states; and how do we figure out what states are doing better than others, and using that model to increase the compliance rates and reduce improper payments across the country.

Mr. FERGUSON. Thank you. I yield back, Mr. Chairman.

U.S. Department of Labor
Office of Inspector General—Office of Audit

REPORT TO THE EMPLOYMENT
AND TRAINING ADMINISTRATION

COVID-19: ETA AND STATES DID NOT PROTECT PANDEMIC-RELATED UI FUNDS FROM IMPROPER PAYMENTS INCLUDING FRAUD OR FROM PAYMENT DELAYS

DATE ISSUED: SEPTEMBER 30, 2022
REPORT NUMBER: 19-22-006-03-315

U.S. Department of Labor
Office of Inspector General
Audit

BRIEFLY...

COVID-19: ETA AND STATES DID NOT PROTECT PANDEMIC-RELATED UI FUNDS FROM IMPROPER PAYMENTS INCLUDING FRAUD OR FROM PAYMENT DELAYS

September 30, 2022

WHY OIG CONDUCTED THE AUDIT

On March 27, 2020, under the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Congress provided expanded Unemployment Insurance (UI) benefits to workers who were unable to work as a direct result of the COVID-19 pandemic. The expanded benefits required the Employment and Training Administration (ETA) to oversee states' implementing major changes to the UI system.

Our pandemic response oversight focus includes three high-risk temporary UI programs: Pandemic Unemployment Assistance (PUA), Pandemic Emergency Unemployment Compensation (PEUC), and Federal Pandemic Unemployment Compensation (FPUC). The 3 programs, as of April 23, 2022, had paid $663.8 billion in pandemic-related UI benefits.

WHAT OIG DID

We conducted this performance audit to answer the following question:

> Did ETA and states ensure UI benefits were paid only to eligible individuals promptly?

To do so, we assessed ETA's oversight, surveyed 49 State Workforce Agencies (SWA or state), and performed in-depth testing, including case file reviews, for 4 states.

READ THE FULL REPORT

https://www.oig.dol.gov/public/reports/oa/2022/19-22-006-03-315.pdf

WHAT OIG FOUND

We found ETA and states did not ensure pandemic-related UI funds were paid only to eligible individuals promptly. Of the 4 states we tested, from March 28, 2020, through September 30, 2020, we estimated $30.4 billion of the $71.7 billion in PUA and FPUC benefits were paid improperly (42.4 percent). We estimated $9.9 billion of that was paid to likely fraudsters (13.8 percent). Notably, in the 4 states, 1 in 5 dollars initially paid in PUA benefits went to likely fraudsters.

Federal guidance required states to prioritize expediency, but we also found many Americans faced lengthy delays in receiving UI payments. States continued to be challenged by the increase in claims' volume while implementing the new UI programs. From March 28, 2020, through March 14, 2021, the 4 states were able to pay 86 percent of PUA claimants timely; however, they took more than 30 days to pay 14 percent of all reported PUA claimants. Also, during the year after the CARES Act passed, 48 of 53 SWAs were unable to timely pay regular UI claims, and, based on our analysis of ETA's timeliness reports, at least 6.2 million American workers nationwide waited a month or more for pandemic-related UI benefits.

ETA and states made significant efforts; however, they did not protect pandemic-related UI funds from historic levels of improper payments. We attribute this to four causes: states did not perform eligibility testing, ETA's oversight was not timely enough, PUA initially allowed claimants to self-certify their eligibility, and ETA suspended 1 of their primary oversight tools for the first 3 months of the CARES Act. Furthermore, ETA's interpretation of its regulations hindered the OIG's timely and complete access to state UI claims data to assist in detecting and deterring fraud.

WHAT OIG RECOMMENDED

We made five recommendations to ETA to improve oversight to minimize payment delays and improper payments, including fraud. ETA agreed or partially agreed with three of the five recommendations and provided an acceptable alternative for one recommendation.

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U.S. Department of Labor

Office of Inspector General
Washington, DC 20210

INSPECTOR GENERAL'S REPORT

Brent Parton
Acting Assistant Secretary
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This report presents the results of the Office of Inspector General's (OIG) audit of the Employment and Training Administration (ETA) and states' Unemployment Insurance (UI) programs under the Coronavirus Aid, Relief, and Economic Security (CARES) Act and related extensions. Among other support, the CARES Act expanded UI benefits to workers unemployed as a direct result of the COVID-19 pandemic, including by creating three key pandemic-related UI programs: Pandemic Unemployment Assistance (PUA), Pandemic Emergency Unemployment Compensation (PEUC), and Federal Pandemic Unemployment Compensation (FPUC).

Shortly after the CARES Act passed, we issued an advisory report[1] that identified concerns about state preparedness. In our May 2021 CARES Act UI audit,[2] we found states struggled to pay claimants and to protect funds from improper payments, including fraud. States were challenged by the unprecedented increase in claims and by implementing the new programs and statutory changes to existing UI programs and did not perform required and recommended improper payment detection and recovery activities. As of April 23, 2022, ETA reported the 3 key pandemic-related UI programs had paid $663.8 billion of the total estimated $872.5 billion paid in pandemic-related UI benefits.

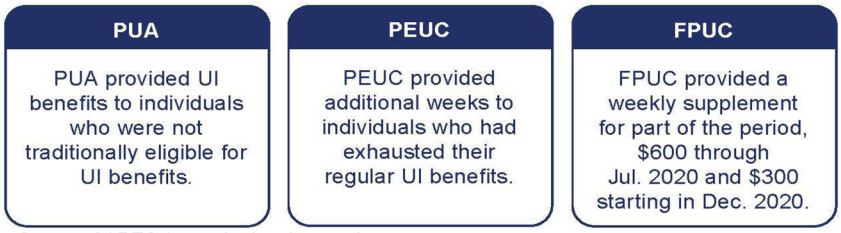
[1] CARES Act: Initial Areas of Concern Regarding Implementation of Unemployment Insurance Provisions, Report No. 19-20-001-03-315 (April 21, 2020), https://www.oig.dol.gov/public/reports/oa/2020/19-20-001-03-315.pdf
[2] COVID-19: States Struggled to Implement Cares Act Unemployment Insurance Programs, Report No. 19-21-004-03-315 (May 28, 2021), https://www.oig.dol.gov/public/reports/oa/2021/19-21-004-03-315.pdf

As part of our continuing pandemic response oversight work, we conducted this performance audit to answer the following question:

> Did ETA and states ensure UI benefits were paid only to eligible individuals promptly?

To answer this question, we focused on high-risk UI benefit programs including, but not limited to: PUA, PEUC, and FPUC. Essentially, PUA provided UI benefits to workers who were not traditionally eligible,[3] PEUC provided additional weeks of UI benefits to workers who had exhausted their regular benefits, and FPUC provided a supplement ($600 weekly through July 2020, then, starting in December 2020, $300 weekly) to workers eligible for at least $1 of UI benefits (see Figure 1).

Figure 1: Three Key Pandemic-Related UI Programs



Source: CARES Act and related extensions

Created by the CARES Act on March 27, 2020, the three programs were later extended by the Continued Assistance for Workers Act of 2020 (CAA) and the American Rescue Plan Act (ARPA), ending on September 6, 2021.

This audit focused on UI benefit payments made between March 28, 2020, and March 14, 2021. As of March 14, 2021, State Workforce Agencies (SWA or state) had drawn down $472.2 billion in federal funds to pay UI benefits for PUA, PEUC, and FPUC (see Exhibit 1). Of the $472.2 billion funds paid in federal UI funds, almost a third (28 percent) was drawn down by 4 states: California, Georgia, Kentucky, and Michigan (4 states). We selected these 4 states for in-depth analysis based on a risk analysis, including an analysis of funding

[3] PUA included independent contractors, those with limited work history, and those who otherwise did not qualify for regular UI or extended benefits under state or federal law or under PEUC.

amounts, law enforcement intelligence, congressional interest, and media reports.

We asked the other 49 SWAs[4] to complete questionnaires. We also assessed ETA's guidance and oversight such as Unemployment Insurance Program Letters (UIPL) and monitoring reports. Last, we analyzed data all SWAs submitted in response to Inspector General (IG) subpoenas. We identified two universes of claimants, one to assess claimant eligibility and the other to assess SWAs' timeliness in issuing payments to claimants.

RESULTS

We found ETA and states did not ensure pandemic-related UI funds were paid only to eligible individuals promptly. Of the 4 states we tested, from March 28, 2020, through September 30, 2020, we estimated $30.4 billion of the $71.7 billion in PUA and FPUC benefits were paid improperly (42.4 percent). We estimated $9.9 billion of that was paid to likely fraudsters[5] (13.8 percent). Notably, in the 4 states, 1 in 5 dollars initially paid in PUA benefits went to likely fraudsters. The percentages of improper payments identified during this audit applied only to the 4 states and were not projected to the nation.

Federal guidance required states to prioritize expediency, but we also found many Americans faced lengthy delays in receiving UI payments. States continued to be challenged by the increase in claims' volume while implementing the new UI programs and statutory changes to existing UI programs. From March 28, 2020, through March 14, 2021, the 4 states were able to pay 86 percent of PUA claimants timely; however, they took more than 30 days to pay 14 percent of all reported PUA claimants. Also, during the year after the CARES Act passed, 48 of 53 SWAs were unable to timely pay regular UI claims, and, based on our analysis of ETA's timeliness reports, at least 6.2 million

[4] The 50 states, the District of Columbia, the U.S. Virgin Islands, and Puerto Rico have SWAs that administer UI programs.
[5] We specifically use the term "likely" when referring to fraudulent claims for which the source of the claim has yet to be identified and convicted in a court of law. For our analysis, the OIG's Office of Investigations' data scientist team identified claims with fraud indicators, and we then analyzed the case file or subpoenaed data for supporting evidence, such as multiple claims filed from one physical address.

American workers nationwide waited a month or more for pandemic-related UI benefits.[6]

ETA and states made significant efforts; however, they did not protect pandemic-related UI funds from historic levels of improper payments, including fraud. We attribute this to four causes. Specifically, states did not perform eligibility testing, ETA's oversight was not timely enough, PUA initially allowed claimants to self-certify their eligibility, and ETA suspended 1 of their primary oversight tools for the first 3 months of the CARES Act. Furthermore, ETA's interpretation of its regulations hindered the OIG's timely and complete access to state UI claims data to assist in detecting and deterring large-scale fraud.

IN 6 MONTHS, 4 STATES PAID 42.4 PERCENT OF UI BENEFITS IMPROPERLY, INCLUDING NEARLY 14 PERCENT PAID TO LIKELY FRAUDSTERS

WHAT IS AN IMPROPER PAYMENT?

A payment is improper if it should not have been made or was to the wrong recipient.

*

Examples include overpayments and underpayments.

*

An improper payment can be unintentional or intentional.

*

Intentional improper payments are more commonly referred to as financial fraud.

Paying claimants accurately and preventing improper payments, including fraud, continued to challenge states throughout the effective period for the CARES Act and CAA—March 28, 2020, through March 14, 2021. To assess eligibility, we statistically sampled and tested 214 cases in the 4 states where claimants received either PUA or regular UI with an FPUC supplement between March 28, 2020, and September 30, 2020. Additionally, we judgmentally selected 40 cases (10 from each of the 4 states) from January 1, 2021, through March 14, 2021, to assess any impact of legislative changes after CAA required proof of wages for PUA rather than relying solely on self-certification.

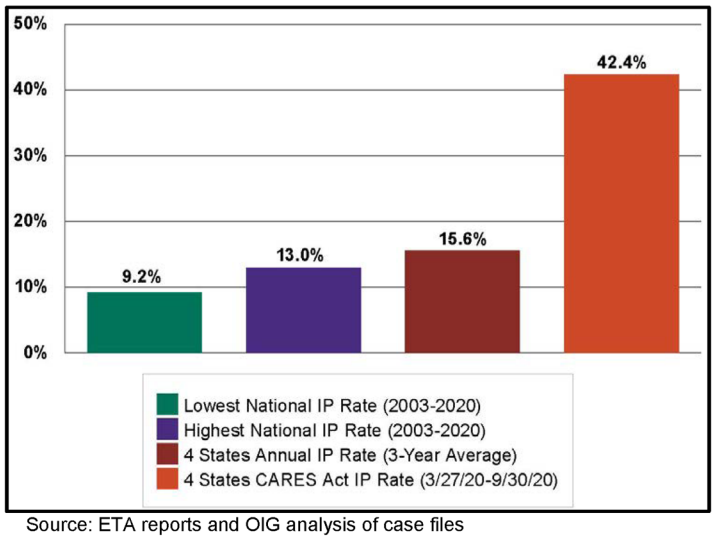
From March 28, 2020 through September 30, 2020, we found the 4 states paid 118 of 214 cases improperly—$1,435,132 of the total $3,381,823 (42.4 percent) paid. During that time, the 4 states submitted data that

[6] Based on data submitted by states in response to an IG subpoena: from March 28, 2020, to September 30, 2020, 4 states submitted claims data for 9,546,807 claimants and $71,663,117,052 in benefits for the PUA and FPUC programs. A stratified random sample of 214 was extracted from the universe and a total of 118 improper payments were identified. Based on this sample, it is projected that approximately 5,264,127 improper payments are among the total universe, with 95 percent confidence the true value falls between 4,895,638 and 5,632,616. Furthermore, it is projected that approximately $30,411,417,895 were improperly paid, with 95 percent confidence that the true value falls between $28,282,618,642 and $32,540,217,148.

showed they paid a total of 9.5 million claimants $71.7 billion in UI benefits for PUA and FPUC. By projecting our statistical sample across the 4 states, we estimated that, in about 6 months after the CARES Act passed, the 4 states improperly paid approximately 5.3 million claimants $30.4 billion, with $9.9 billion attributed to 1.1 million likely fraudulent claims.

For comparison, in the 3 years leading up to the pandemic (April 1, 2017, to March 31, 2020), ETA's Benefit Accuracy Measurement (BAM) program[7] estimated the 4 states averaged an improper payment rate of 15.6 percent annually, with 2.8 percent attributable to fraud. Nationwide, for the last 18 years, ETA has estimated the UI improper payment rate between 9.17 percent and 13.03 percent (see Figures 2 and 3).

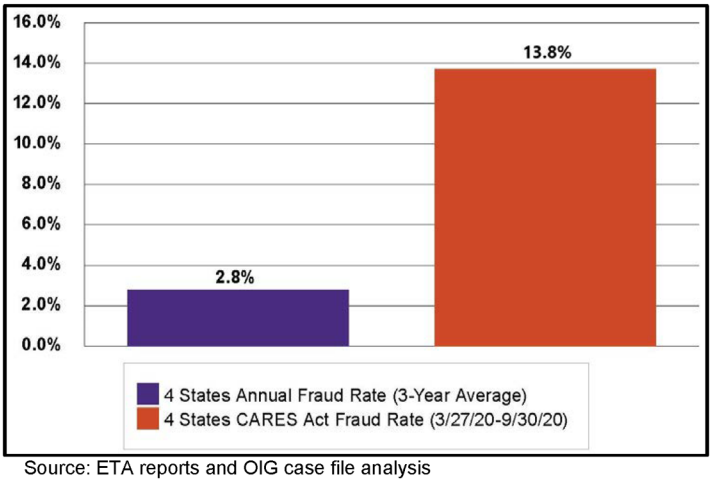
Figure 2: Comparison of Improper Payment Rates, Pre-Pandemic Annual Averages and 4 States in First 6 Months of CARES Act



Source: ETA reports and OIG analysis of case files

[7] According to ETA, BAM is a quality control statistical survey used to identify errors and support corrective action in the state UI system. It usually focuses on the three major UI programs: regular UI, Unemployment Compensation for Federal Employees, and Unemployment Compensation for Ex-service members. BAM data is used to estimate the total improper payments in the UI program, in each state and in the nation as a whole, based on a statistically valid examination of a sample of paid and denied claims.

Figure 3: Comparison of Fraud Rates, Pre-Pandemic Annual Averages and First 6 Months of CARES Act for the 4 States



Source: ETA reports and OIG case file analysis

Based on case files and data subpoenaed from states, we identified that 25 of 214 sampled claimants were likely fraudulent actors.[8] These likely fraudsters received $465,723 of the total $3,381,823 paid, equating to a fraud rate of 13.8 percent.

Furthermore, nine of the sampled claimants appeared to be victims of identity fraud. In total, 951 claims filed in 28 different states were attached to likely fraudsters or identity fraud cases. States prevented payments to 495 of these UI claims; however, 456 claims received $7,092,604 in unemployment benefits from 14 different states (see Exhibit 2).

ETA reminded states of their roles and responsibilities in preventing improper payments, including those related to fraud:

- In August 2020, ETA issued UIPL No. 28-20, which reiterated Section 303(a)(1) of the Social Security Act requirements that, as a condition of a state receiving administrative grants for its UI program, state law must provide for "methods of administration…As are found by the

[8] Prior to the release of this audit report, the claimants associated with the fraudulent claims were referred to the OIG's Office of Investigations to assess and determine if the claims warrant investigation. If the claims do not warrant investigation, they will be referred to the SWA, in accordance with UIPL 04-17.

Secretary of Labor to be reasonably calculated to insure full payment of unemployment compensation when due." Also, UIPL No. 04-01 interprets the "when due" requirement to also require states to ensure that payment of benefits is not made when payment is not due. DOL has consistently interpreted Section 303(a)(1) to require "that state law include provision for such methods of administration as are, within reason, calculated (1) to detect benefits paid through error by the agency through willful misrepresentation or error by the claimant or others, and (2) to deter claimants from obtaining benefits through willful misrepresentation."

- In May 2020, ETA issued UIPL No. 23-20, which specified that the CARES Act programs operate in tandem with the fundamental eligibility requirements of the federal-state UI program. The UIPL further specified that state UI laws must include provisions for administration methods to detect and deter improper payments accomplished through SWAs' Benefit Payment Control (BPC) units or other designated staff responsible for promoting and maintaining the integrity of the UI program through prevention, detection, investigations, establishment, and recovery of overpayments.

STATES PAID CLAIMANTS IMPROPERLY

For the period March 28, 2020, to September 30, 2020, we identified 114[9] of 214 claimants received improper payments for PUA and regular UI with a FPUC supplement, not including fraud.

This includes:

- 47 claimants who were ineligible due to not being or not certifying that they were able to or available for work;
- 23 claimants whose identity could not be verified by the state;
- 11 claimants who were ineligible due to voluntarily quitting employment, being discharged for cause, or stating their employment ended due to the pandemic despite their last date of employment occurring significantly before the pandemic started;
- 7 claimants who were ineligible due to claiming benefits after returning to work or failing to accurately report earnings;
- 1 claimant who refused suitable work; and

[9] Forty-six percent (53 of the 114) of claimants with improper payment issues had multiple types of improper payments. In instances where a violation would result in questioned cost as part of multiple violations, the greater of the costs was used.

- 69 claimants who were ineligible due to violations of PUA-specific requirements (details follow).

ETA reported states were particularly challenged while implementing the PUA program because it was very different compared to the regular UI program, served a unique population, and had new eligibility requirements.[10] Included in our 214 sampled claimants were 98 PUA claimants. Of these, we found states did not comply with PUA specific requirements when paying 69[11] of 98 PUA claimants (70 percent). Specifically, we found:

- 31 claimants who were paid more than the minimum weekly benefit amount without supporting documentation,
- 28 claimants who did not recertify being eligible due to a COVID-19-related reason,[12]
- 19 claimants who were paid benefits under CAA and ARPA without documentation substantiating employment or self-employment as required,
- 4 claimants who received PUA despite eligibility for the regular UI program, and
- 3 claimants who were paid without a valid COVID-19-related reason.

In addition to the 214 sampled claimants, to test the expanded PUA eligibility requirements under the CAA, we judgmentally selected 10 claimants from each state. We identified that 22[13] of 40 sampled PUA claimants received $148,110 of $346,805 in federal UI (43 percent) benefits improperly. Specifically, we found:

- 18 claimants who were paid benefits under CAA and ARPA without documentation substantiating employment or self-employment,
- 7 claimants whose identity could not be verified by the state,

[10] ETA provided this statement on May 28, 2021, in response to a CARES Act UI draft report, specifically, COVID-19: States Struggled to Implement Cares Act Unemployment Insurance Programs, Report No. 19-21-004-03-315 (May 28, 2021), https://www.oig.dol.gov/public/reports/oa/2021/19-21-004-03-315.pdf.
[11] Seventy percent (48 of the 69) of claimants with PUA-specific improper payment issues had multiple types of improper payments. In instances where a violation would result in questioned cost as part of multiple violations, the greater of the costs was used.
[12] CARES Act Section 2102(a)(3)(A)(ii)(I) requires PUA claimants to self-certify that they are otherwise able and available to work, except that the individual is unemployed, partially unemployed, or unable and unavailable to work based upon certain COVID-19-related reasons.
[13] Thirty-two percent (7 of 22) of claimants with PUA-specific improper payment issues had multiple types of improper payments. In instances where cost were questioned as part of multiple violations, the greater of the costs was used.

- 2 claimants who were ineligible due to not being able to work or not being available for work,
- 1 claimant who was paid more than the minimum weekly benefit amount without supporting documentation, and
- 1 claimant who was ineligible due to voluntarily quitting employment or being discharged for cause.

ETA officials objected to the use of the time period March 28, 2020, to September 30, 2020, to test claimants' eligibility. ETA officials stated this was early in the pandemic when states were implementing the new programs and states have since made significant improvements. We acknowledge the likely accuracy of these statements; however, during this period, states spent approximately 51 percent, $340.1 billion, of UI funds for the new key pandemic-related programs. Therefore, increased scrutiny is valid.

Further, the OIG did not have timely and complete access to state UI claims data due to ETA's interpretation of the Code of Federal Regulations (C.F.R.) and significant delay in issuing guidance to states that they were required to provide access to their UI data to OIG for audits and investigations. On August 3, 2021, ETA revised its position and facilitated the OIG's access for the pandemic period, but ETA's policy revisions came more than a year after the OIG first notified ETA of potential large-scale fraud and of the need for access to state UI claims data.

STATES DID NOT PREVENT LIKELY FRAUDULENT PAYMENTS

In our February 22, 2021, CARES Act Alert Memorandum,[14] we reported ETA needed to take immediate action to mitigate fraud in pandemic-related UI programs. For the 3 years leading up to March 31, 2020, ETA estimated the UI fraud rate for the 4 states was 2.8 percent; however, from the cases we tested, we estimated the likely fraud rate in the 4 states during the period March 28, 2020, to September 30, 2020, was 13.8 percent, a 393 percent increase compared to the prior 3 years.

To determine the likely fraudulent claims, we collaborated with the OIG's Office of Investigations' data scientist team, who reviewed each case for a fraud indicator. We then reviewed those case files against IG-subpoenaed data for all the SWAs to substantiate the fraud indicator.

[14] Alert Memorandum: The Employment and Training Administration (ETA) Needs to Ensure State Workforce Agencies (SWA) Implement Effective Unemployment Insurance Program Fraud Controls for High Risk Areas, Report No. 19-21-002-03-315 (February 22, 2021), https://www.oig.dol.gov/public/reports/oa/2021/19-21-002-03-315.pdf

For example, we identified a claimant who filed a claim from a 3-bedroom house that was the shared location for 90 other claims. The same claimant also shared a flagged[15] email address with 145 other claims. In total, this claimant was connected to 235 other claims for unemployment benefits in 3 states—receiving benefits on 87 of those claims, all filed in California, for a total amount of $1,569,762. California was unable to verify the sampled claimant's identity and stopped payment on September 8, 2020, 164 days after the initial payment.

Overall, of the 214 claimants, we identified 25 who likely committed fraud to receive UI benefits. These 25 claimants were connected to 603 claims filed in 24 different states but were only successful in 13 states. On average, we found those 25 likely fraudsters succeeded in receiving UI benefits for claims filed at a rate of 60.5 percent. We classified the claimants by the following fraud indicators:

- **Flagged physical address**—21 claimants filed with a flagged physical address. For example, one claimant filed 48 different claims from one address and received $406,566 unemployment benefits on 21 of those claims. Claimants with a flagged physical address fraud indicator received $4,570,604 in UI benefits;
- **Multi-state claimants**—14 claimants filed for benefits in multiple states. Claimants with multi-state fraud indicators received $1,371,192[16] in UI benefits;
- **Flagged email address**—10 claimants filed with a flagged email address. For example, 1 claimant filed 30 different claims from a shared flagged email address and received $589,800 on 25 of those claims. Claimants with email fraud indicators received $3,726,267 in UI benefits;
- **Flagged phone number**—9 claimants filed with a flagged phone number. For example, one such claimant filed in three different states using the same phone number but with different addresses in a short period of time. In total, the claimant received $120,290 on 8 of those claims. Claimants with flagged phone number fraud indicators received $1,149,960; and
- **Flagged Bank Account**—3 claimants filed with a flagged bank account. For example, one claimant with a flagged bank account filed in 3 different states with a shared flagged email address for 15 other claims and shared physical address for 48 different claims. In total, the claimant filed 65 different claims and received $322,453 on 21 of those claims. Claimants with bank account fraud indicators received $675,917.

[15] Flagged claimants are those that were indicated by the OIG's Office of Investigations as potentially fraudulent.
[16] Claimants often had multiple fraud indicators; therefore, these include duplicate benefit amounts for each fraud flag.

HISTORIC LEVELS OF IMPROPER PAYMENTS, INCLUDING FRAUD, HAD FOUR COMMON CAUSES

While states were able to initiate pandemic-related UI programs and ETA was able to offer guidance and perform monitoring, improper payments including fraud reached historic levels. We attribute the historic levels of improper payments, including fraud, to four common causes. Specifically,

(1) states did not always perform required procedures necessary to ensure claimants were eligible,
(2) ETA's guidance and oversight was not timely enough to prevent improper payments,
(3) the PUA program's initial reliance solely on self-certification left it vulnerable to improper payments, and
(4) ETA suspended the BAM program for the first 3 months of the CARES Act.

Additionally, ETA's interpretation of the C.F.R. and significant delay in issuing guidance to states hindered the OIG's timely and complete access to data to assist in detecting and deterring large-scale fraud.

More information on each cause follows.

(1) STATES DID NOT ALWAYS PERFORM REQUIRED PROCEDURES TO ENSURE ELIGIBILITY

ETA officials reported[17] states faced the combined challenges of (1) managing and processing an unprecedented increase in claims volume at an unprecedented pace, (2) making the statutory changes to existing UI programs, and (3) implementing the three new key pandemic-related UI programs.

We found the 4 states did not perform required procedures to determine eligibility. These requirements were not specific to the pandemic-related UI programs and would be performed as part of any regular UI program. Specifically, states did not always perform required procedures such as verifying claimants' availability and ability to work, did not sufficiently verify the identity of

[17] On April 6, 2021, ETA officials stated this in their technical response to the draft of COVID-19: States Struggled to Implement Cares Act Unemployment Insurance Programs, Report No. 19-21-004-03-315 (May 28, 2021), https://www.oig.dol.gov/public/reports/oa/2021/19-21-004-03-315.pdf.

claimants, and did not prevent paying claimants that had separation or return to work issues.

In addition, states did not comply with all eligibility requirements when approving PUA claimants. Our prior CARES Act UI report[18] detailed that states were able to implement the PUA program, on average, in 38 days. However, we found states: were not obtaining weekly eligibility re-certifications, paid claimants more than the allowable minimum weekly benefit amount without supporting documentation, or paid benefits under CAA and ARPA without documentation substantiating employment or self-employment as required.

Moreover, states prioritized expediency over safeguards. For example, the 4 states suspended eligibility and payment controls. Federal guidance issued by the Office of Management and Budget (OMB) on April 10, 2020, required agencies to prioritize expediency, defined as the rapid issuance of awards to meet crucial needs, while also reminding agencies to balance the need for expediency with steps to mitigate fraud, waste, abuse, and improper payments.[19] While expediency was required, prioritizing it over essential payment functions—such as suspending eligibility procedures—was not.

Finally, at the start of the pandemic, not all states were participating in the National Association of State Workforce Agencies' (NASWA) Integrity Data Hub (IDH), which provides cross-matching functionality for SWAs to combat UI fraud. In March 2020, 19 states had not executed an IDH participation agreement to cross-match with the IDH datasets and 50 states were not participating in the multi-state cross-match. Of the 4 states, only one state, Michigan, participated in the multi-state cross-match and the new identity verification service. Despite participation in the IDH, Michigan had higher than typical fraudulent payments (see Tables 1 and 2).

ETA officials reported that, since the timeframe of our testing, the IDH has experienced increased participation and created an identity verification service. As of March 2022, all 53 states executed an IDH Participation Agreement, 35 states are receiving identity verification results, and 43 states were using the multi-state cross-match.

(2) ETA'S GUIDANCE AND OVERSIGHT WAS NOT TIMELY ENOUGH

[18] COVID-19: States Struggled to Implement Cares Act Unemployment Insurance Programs, Report No. 19-21-004-03-315
(May 28, 2021), https://www.oig.dol.gov/public/reports/oa/2021/19-21-004-03-315.pdf.
[19] OMB Memorandum 20-21, Implementation Guidance for Supplemental Funding Provided in Response to the Coronavirus Disease 2019 (April 10, 2020)

After the CARES Act passed, ETA worked quickly to obtain signed state agreements and ensure pandemic-related UI funds were available. ETA issued 48 UIPLs, created monitoring tools, issued a self-assessment tool, produced training webinars, and reviewed states' implementation of key pandemic-related UI programs. ETA also created a website for state officials that listed guidance, policies, and resources to help states respond to the pandemic, including fraud alerts from the OIG and other law enforcement agencies.

Despite its efforts, ETA's guidance and oversight was not timely enough to prevent historic improper payments of UI benefits. We previously reported that state officials cited ETA's guidance about initial and continued eligibility was untimely and unclear.[20] We found ETA's monitoring reports demonstrated its oversight addressed issues after billions had already been paid.

For example, in July 2020, ETA notified California that their PUA monetary determination form did not have a procedure in place for re-determining the claimant's weekly benefit if the claimant did not provide proof of earnings or provided insufficient proof. California responded that the problem would be addressed by the end of August 2020. However, by the end of August, California had paid approximately $25.4 billion in PUA benefits, including FPUC.

A similar issue occurred in Michigan. On June 17, 2020, ETA notified Michigan that their PUA form did not include the required able and available questions. However, by then, Michigan had paid approximately $4.6 billion in PUA benefits, including FPUC.

ETA was able to provide states guidance on areas of improper payments as early as May 2020. However, ETA and states must be prepared for disasters before they occur. In a response to the draft of the OIG's Semiannual Report to Congress, Volume 87,[21] ETA highlighted that the time it took to initialize the pandemic-related UI programs would typically take up to 4 years. Specifically, ETA officials stated:

> States' ability to provide benefit payments within one to two months for a new, temporary UI program is a very impressive achievement given the extensive, complex requirements and activities that were necessary for implementation. For comparison purposes, a swift rollout of a new government benefit program—including the policy, product and operations—would be 30-48 months. States

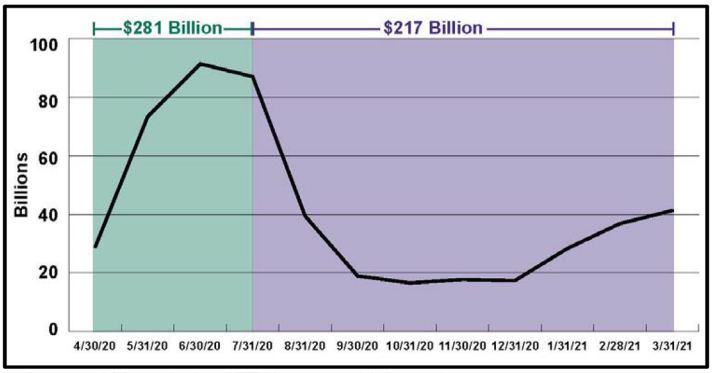
[20] COVID-19: States Struggled to Implement Cares Act Unemployment Insurance Programs, Report No. 19-21-004-03-315 (May 28, 2021), https://www.oig.dol.gov/public/reports/oa/2021/19-21-004-03-315.pdf
[21] Semiannual Report to Congress, Volume 87, October 1, 2021 – March 31, 2021, https://www.oig.dol.gov/public/semiannuals/87.pdf

> concurrently handled the launch of three new programs, which included the unprecedented PUA program that covered a population previously excluded by the UI program and for which no state UI processes were prepared to accommodate. This was all accomplished while the states were navigating a ten-fold claims volume increase, never before encountered in the program's 85-year history.

We are concerned that, given the nature of emergency situations, states would be unlikely to have a lengthy rollout period for emergency programs. ETA and states must include risk planning that would identify measures to facilitate the creation of new programs similar to the ones created in response to the COVID-19 pandemic. This risk planning should include steps to ensure eligibility procedures and BPC operations continue to function during emergency situations to prevent improper payments before they occur.

Compounding the issue, states drew down about $281 billion from April 1, 2020, to July 31, 2020, which was more than the states drew down from August 1, 2020, through March 31, 2021 (see Figure 4).

Figure 4: State-Reported Drawdowns for PUA, FPUC, and PEUC



Source: OIG analysis of ETA's reported information

(3) RELIANCE ON SELF-CERTIFICATION MADE PUA HIGHLY SUSCEPTIBLE TO FRAUD

The CARES Act provided up to 39 weeks of PUA coverage to individuals who were not traditionally eligible for UI benefits. During the program's first 9 months,

PUA claimants did not have to provide evidence of earnings and states relied solely on claimant self-certifications, rendering the program extremely susceptible to improper payments, including fraud. We reported our concerns regarding this risk in an alert memorandum issued in May 2020, approximately 2 months after the enactment of the CARES Act.[22] We advised ETA that the OIG interprets the CARES Act as requiring individuals to submit documentation to substantiate employment.[23] However, ETA disagreed with our assessment based on their interpretation of the CARES Act and underlying regulations.

In October 2020, we further reported[24] states had confirmed our concern about this risk. Specifically, states reported inherent vulnerability in the PUA self-certification process and cited the PUA self-certification requirement as a top fraud vulnerability. Subsequent to our work identifying the fraud risks, Congress took action to require supporting documentation to improve SWAs' abilities to ensure proper claimant eligibility and to mitigate fraud.

In this audit, we tested 98 PUA cases and found 22 (22 percent) were likely fraudulent. In fact, $1 out of $5 initially paid to PUA claims in the 4 states went to likely fraudsters. In contrast, we identified only 3 regular UI claims out of 116 as likely fraudulent.

(4) BAM SUSPENDED FOR THE FIRST 3 MONTHS AFTER THE CARES ACT PASSED

One of ETA's primary oversight tools is the BAM program, a statistical survey designed to determine the accuracy of paid and denied UI claims. It does this by reconstructing the UI claims process for samples of weekly payments and denied

[22] Alert Memorandum: The Pandemic Unemployment Assistance Program Needs Proactive Measures to Detect and Prevent Improper Payments and Fraud, Report No. 19-20-002-03-315 (May 26, 2020), https://www.oig.dol.gov/public/reports/oa/2020/19-20-002-03-315.pdf

[23] The CARES Act (§ 2102(h)) states that federal regulations governing the Disaster Unemployment Assistance (DUA) program apply to the PUA program unless there is a conflict between the regulations and CARES Act § 2102, or an express provision in § 2102 applies. The DUA regulations at 20 C.F.R. § 625.6(e) require states to immediately determine eligibility upon an initial application based on the individual's statement of employment/self-employment. Furthermore, states are required to make an immediate determination of a weekly benefit amount based on documentation provided, at the time of initial application, or if not available, on any state agency records of employment or self-employment and related earnings; or on an individual's statement of employment or self-employment wages earned. DUA regulations at 20 C.F.R. § 625.6(e)(1) state that individuals receiving a benefit payment based solely on the claimant's statements are required to submit documentation to substantiate employment or self-employment wages within 21 days of the initial filing.

[24] COVID-19: States Cite Vulnerabilities in Detecting Fraud While Complying with the CARES Act UI Program Self-Certification Requirement, Report No. 19-21-001-03-315 (October 21, 2020), https://www.oig.dol.gov/public/reports/oa/2021/19-21-001-03-315.pdf

claims using data verified by trained investigators. BAM is used to identify the root causes of improper payments; it is a diagnostic tool for the use of federal and state staff in identifying errors and causes as well as for correcting and tracking solutions to these problems.

However, ETA allowed states to temporarily suspend the BAM program from April 1, 2020, through June 30, 2020, due to the significant and sudden increase in workload brought on by COVID-19 pandemic. ETA and states cannot, therefore, estimate the amount spent improperly for the first 3 months of the pandemic-related UI programs.

Consistent with an OIG recommendation, ETA is beginning to estimate the improper payment rate for pandemic-related UI programs. To do so, ETA applied the regular UI improper payment rate to the FPUC and PEUC programs. ETA stated it will develop a separate methodology and report the PUA improper payment rate in 2022.

For July 1, 2020, through June 30, 2021, ETA estimated the national improper payment rate as 18.71 percent. Based on our audit and investigative work, as stated in our pandemic response oversight plan and in Congressional testimony,[25] the improper payment rate for pandemic-related UI programs is likely higher. Based on our testing, we estimated an improper payment and fraud rate for each of the 4 states and compared it to ETA's estimated BAM rate (see Tables 1 and 2).

Table 1: OIG Estimated Improper Payment and Fraud Rates (March 28, 2020–September 30, 2020)

State	Estimate Source	Programs	Improper Payment Rate %	Fraud Rate %
California	OIG Audit	PUA and FPUC	36.6	19.2
Georgia			38.4	7.8
Kentucky			20.1	2.2
Michigan			67.9	3.9

Source: OIG analysis of case files

[25] "Pandemic Response and Accountability: Reducing Fraud and Expanding Access to COVID-19 Relief through Effective Oversight," March 17, 2022, Hearing of the U.S. Senate Committee on Homeland Security and Governmental Affairs, Statement of Larry D. Turner, Inspector General, Office of Inspector General, U.S. Department of Labor, Report No. 19-22-003-03-315, https://www.oig.dol.gov/public/testimony/20220317.pdf

Table 2: ETA BAM Estimated Improper Payment and Fraud Rates (April 1, 2020–March 31, 2021)

State	Estimate Source	Programs	Improper Payment Rate %	Fraud Rate %
California	BAM Program	FPUC and PEUC	8.9	3.1
Georgia			12.9	5.9
Kentucky			6.0	4.1
Michigan			16.0	0.9

Source: ETA BAM reports

Michigan's improper payment rate was largely driven by the state not initially implementing able and available certifications for the PUA program. ETA identified the issue, and Michigan corrected it by June 15, 2020. OMB Circular A-123, Appendix C, Requirements for Effective Estimation and Remediation of Improper Payments, states: "when an agency's review is unable to discern whether a payment was proper as a result of insufficient or lack of documentation, this payment must also be considered an improper payment."

ETA's BAM estimated improper payment rates for the 4 states was lower than the OIG estimate likely due to two primary factors. First, the OIG audit estimate focuses on the initial 6 months of the CARES Act programs, including the 3 months ETA suspended the BAM program. During this time, states had not completely initialized their programs with all required elements and did not perform all eligibility testing.

Second, ETA's BAM program estimate does not include PUA claimants. ETA has not yet reported improper payment data for the PUA program, which, as previously noted, was highly susceptible to improper payments, including fraud. In the 4 states, we found PUA claimants received 44 percent of benefits improperly while regular UI claimants with an FPUC supplement received 31 percent of benefits improperly.

ETA'S INTERPRETATION OF REGULATIONS LIMITED DOL OIG FROM ASSISTING IN DETECTING AND DETERRING LARGE-SCALE FRAUD

The OIG conducts independent oversight of the UI program to, in part, detect and deter large-scale fraud. The power and use of data and predictive analytics enables the OIG to continuously monitor DOL programs and operations to detect

and investigate fraud. Continuous monitoring serves as a deterrent to fraud, allows the OIG to promptly discover areas of weakness, and assists DOL management to timely correct problems. However, ETA's interpretation of its regulations and significant delay on issuing guidance to the states hindered the OIG's timely and complete access to state UI claims data to assist in detecting and deterring UI fraud.

Early in the pandemic, OIG requested that DOL instruct the states of the requirement to disclose UI information to the OIG for program audits and investigations. The OIG expressed the urgent need for DOL to issue this guidance to the states immediately due to increasing allegations of UI fraud. In response, DOL disagreed with the OIG and relied on a legal interpretation of its own UI disclosure regulations, asserting it could not require states to provide UI data to the OIG for audits. As a result, the OIG was forced to take the unprecedented step of issuing IG subpoenas to every SWA in order to obtain this critical claims data. ETA's inaction in providing early guidance to the states caused delay and confusion among the states. ETA could have issued guidance earlier; however, by the time it did so, fraudsters had already taken billions in federal funding.

For example, from March 2020 to October 2020, the OIG identified[26] almost $17 billion including approximately $915 million identified under more than one category resulting in over $16 billion in potentially fraudulent unemployment insurance (UI) pandemic benefits. The over $16 billion in potentially fraudulent UI benefits were paid in four high-risk areas, to individuals with Social Security numbers: 1) filed in multiple states, 2) of deceased persons, 3) of federal inmates, and 4) used to file for UI claims with suspicious email accounts. We shared our methodology and the underlying data with DOL and the states, and we recommended they establish effective controls to mitigate fraud and other improper payments to ineligible claimants. The data provided to DOL and the states included more than 3 million suspicious claimants.

Notably, DOL has revisited its position. On August 3, 2021, ETA issued UIPL No. 04-17, Change 1, which required states to provide UI data for investigations and audits. However, this was a temporary measure that sunsetted on payments

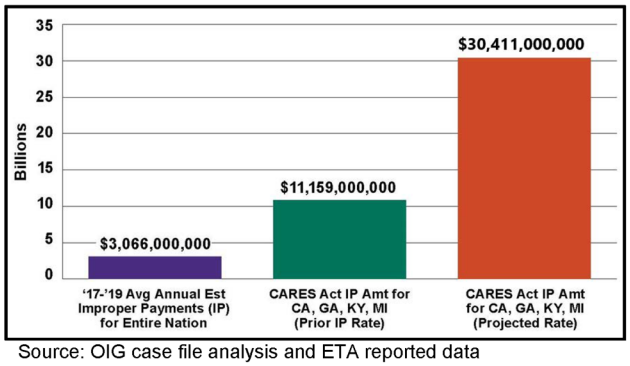
[26] Alert Memorandum: The Employment and Training Administration Needs to Ensure State Workforce Agencies Implement Effective Unemployment Insurance Program Fraud Controls for High Risk Areas, Report No. 19-21-002-03-315 (February 22, 2021), https://www.oig.dol.gov/public/reports/oa/2021/19-21-002-03-315.pdf; and
Alert Memorandum: The Employment and Training Administration Needs to Issue Guidance to Ensure State Workforce Agencies Provide Requested Unemployment Insurance Data to the Office of Inspector General, Report No. 19-21-005-03-315 (June 16, 2021), https://www.oig.dol.gov/public/reports/oa/2021/19-21-005-03-315.pdf

made for the week ending September 6, 2021.[27] Further, ETA reported[28] that, by July 31, 2021, states had drawn down $614.8 billion in pandemic-related UI funds, or approximately 92.6 percent of the benefits paid, meaning that only after the majority of benefits had been paid did ETA issue guidance consistent with the OIG's authority to access claim and wage information for oversight of the UI programs.

AS A RESULT, 4 STATES PAID $30.4 BILLION IMPROPERLY, INCLUDING $9.9 BILLION PAID TO LIKELY PANDEMIC FRAUDSTERS

Highlighting the importance of proper planning and oversight, the 4 states paid more improperly than the total amount typically paid for the entire UI program. From March 28, 2020, to September 30, 2020, we projected the 4 states improperly paid $30.4 billion. In the prior 3 years leading up to March 31, 2020, 50 states, the District of Columbia, and Puerto Rico paid an average of $27.2 billion in UI benefits annually, with an estimated $3.1 billion in improper payments. If the selected states had been able to maintain their prior year's improper payment rates, then states would have paid $19.3 billion less in improper payments (see Figure 5).

Figure 5: Improper Payments Comparison



Source: OIG case file analysis and ETA reported data

[27] ETA has required grant recipients to share state UI data with the OIG as a condition of accepting the fraud prevention grants offered under the American Rescue Plan (ARP) Act, which will continue to facilitate OIG's access through December 31, 2023.
[28] As reported on ETA's website, "Families First Coronavirus Response Act and Coronavirus Aid, Relief, and Economic Security (CARES) Act Funding to States through July 31, 2021, https://oui.doleta.gov/unemploy/docs/cares_act_funding_state.html.

We cannot project the results for the 4 states to the nation since the states were judgmentally selected. However, evidence indicates these issues were prevalent nationwide. Specifically, the 4 states were not alone in suspending eligibility and payment controls. In our survey, 77 percent of responding SWAs indicated they used BPC staff to process payments and 54 percent of responding states indicated they temporarily suspended payment integrity functions to pay claimants faster.

ETA's nationwide BAM program identified overpayment causes among most states common to those we identified in the 4 states, such as:

- Benefit Year Earnings (BYE) Issues where claimants filed for UI benefits after returning to work or failed to accurately report earnings,
- Separation Issues where paid claimants were ineligible for UI benefits due to quitting employment or being discharged for cause, and
- Able and Available (A/A) Issues where paid claimants were ineligible for UI benefits due to not being able to or available for work (see Table 3).

Table 3: Improper Payments (IP) and Causes for the 4 States (April 1, 2020–March 31, 2021)

State		Rank	BYE Issues	Rank	Separation Issues	Rank	A/A Issues	Rank
KY	6.0%	3rd	2.1%	7th	2.0%	13th	0.5%	21st
CA	8.9%	8th	1.5%	4th	1.4%	8th	2.2%	41st
GA	12.9%	18th	3.8%	21st	6.3%	32nd	0.7%	27th
MI	16.0%	29th	8.6%	45th	5.2%	27th	0.5%	22nd

Source: OIG analysis of ETA's reported information

Curbing large-scale, organized UI fraud is not only a function of protecting public funds, it also protects the safety of Americans. Criminal enterprises have discovered that UI fraud is a low-risk, high-reward crime. They have invested fraudulent UI proceeds to further other criminal activity, such as purchasing guns and drugs. Individuals who we find are central to this conduct have been indicted on charges including racketeering conspiracy. The allegations included in these

indictments often relate to numerous violent, drug-trafficking, and economic crimes committed in furtherance of a criminal enterprise.

MORE THAN 6 MILLION AMERICANS WAITED AT LEAST A MONTH FOR PANDEMIC-RELATED UI BENEFITS

In our May 28, 2021, CARES Act UI Audit Report, we highlighted that states were challenged in ensuring claimants were paid promptly. Payment promptness continued to be a challenge for states for the entire CARES Act and CAA effective periods, and, in fact, worsened. To test timeliness, we assessed 9.4 million claimants in the 4 states who received either regular UI or PUA benefits for weeks between March 28, 2020, and March 14, 2021. We used this data in conjunction with publicly-available data reported by ETA to assess payment timeliness for all 53 SWAs.

OMB issued federal guidance on April 10, 2020, requiring agencies to prioritize expediency, which OMB defined as the rapid issuance of awards to meet crucial needs.[29] In addition, ETA's first payment promptness standard for the regular UI program requires 87 percent of claimants to receive their first payment within 14 to 21 days.[30] Further, as previously noted, many states reassigned BPC staff or suspended controls to process claims, contributing to improper payments. However, we found 48 of 53 SWAs were untimely in paying regular UI claimants; only 5 states were able to pay at least 87 percent of claimants within the required time period.

Also, states sometimes took weeks to implement the new programs and claimants could not file for benefits until the new programs were active. As the pandemic-related UI programs were temporary, ETA did not apply its first payment promptness standard to them. However, since this is the standard DOL uses for the timeliness of regular UI payments, we used it for both our regular UI and PUA timeliness analysis, along with other timeliness indicators, to provide context as to the performance of states.

Most states paid at least half of regular UI claimants timely. However, based on our analysis of ETA's timeliness reports, the time required to implement the new

[29] OMB Memorandum 20-21, Implementation Guidance for Supplemental Funding Provided in Response to the Coronavirus Disease 2019 (April 10, 2020).
[30] ETA requires states to pay 87 percent of claimants in 14 or 21 days after the first compensable week depending if there is waiting week. Most states require that an individual, who is otherwise eligible for UI benefits, must first serve a waiting period (generally 1 week) prior to receiving benefits in a particular benefit year.

UI programs and the volume of claims resulted in millions of claimants waiting a month or more for their first payment, including at least 6.2 million Americans eligible for regular UI nationwide.

STATES HAD VARYING SUCCESS PAYING CLAIMANTS TIMELY, AND IT WORSENED

For the regular UI program, eligibility and weekly payment amounts vary by state. However, the regular UI program generally provides 26 weeks of unemployment compensation for individuals who are unemployed through no fault of their own and were working for a certain length of time earning a certain amount of money before becoming unemployed. We included regular UI claimants in our analysis of pandemic-related UI benefits' timeliness as they also received FPUC, the weekly federal supplement.

From our analysis of ETA's reporting, only 5 of the 53 SWAs were able to pay regular UI claimants in compliance with ETA's first payment promptness standard (see Table 4, and see Exhibit 3 for details on timeliness for all 53 SWAs).

Table 4: Five States Met Timeliness Standard for Regular UI (April 1, 2020–March 31, 2021)

State	Total Claimants	Claimants Paid Timely	Percentage Paid Timely
Minnesota	42,418	38,081	90%
Wyoming	32,283	28,591	89%
Louisiana	418,031	369,465	88%
North Dakota	71,912	63,550	88%
Rhode Island	139,518	122,900	88%

Source: OIG analysis of ETA-reported information

All but 5 of the 53 SWAs were able to pay more than 50 percent of regular UI claimants within the ETA's payment promptness standard (see Table 5).

Table 5: Five States Did Not Pay Half of Claimants Timely for Regular UI (April 1, 2020–March 31, 2021)

State	Total Claimants	Claimants Paid Timely	Percentage Paid Timely
Ohio	826,516	356,790	43%
Florida	1,772,328	684,051	39%
Puerto Rico	278,772	94,886	34%
Hawaii	192,294	58,102	30%
Virgin Islands	7,804	730	9%

Source: OIG analysis of ETA-reported information

For our analysis of PUA timeliness, we found only 1 of the 4 states was able to pay PUA claimants consistent with ETA's first payment promptness standard. However, the other 3 of 4 states were able to pay the majority of claimants timely (see Table 6).

Table 6: The 4 States Paid Most PUA Claimants Timely (March 27, 2020–March 14, 2021)

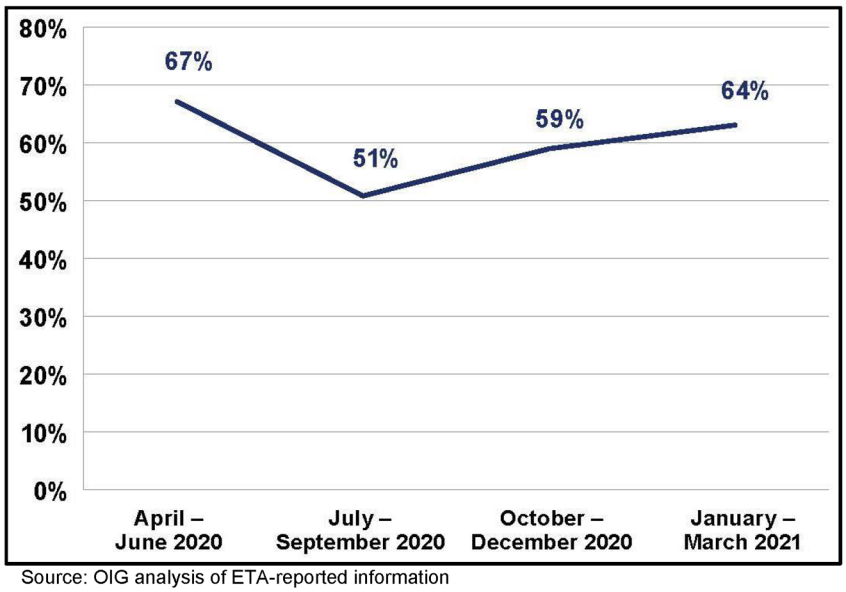
State	Total Claimants	Claimants Paid Timely	Percentage Paid Timely
California	2,485,306	2,187,324	88%
Michigan	659,249	555,379	84%
Georgia	333,268	276,637	83%
Kentucky	123,771	92,290	75%

Source: OIG analysis of information collected during the audit

While states had varying success with timeliness for the first payment during our audit scope, the timeliness nationwide over time worsened after the first quarter of implementation of pandemic-related UI programs. Ninety-four percent of SWAs (50 of 53) paid claimants faster during April through June 2020 than

during July through September 2020. In the first quarter after implementation, 67 percent of claimants were paid timely; however, only 51 percent were paid timely in the next quarter. While the number rose during the following quarter, 2020 ended with fewer claimants receiving their first UI payment on time than in April 2020. This trend continued through March 31, 2021 (see Figure 6).

Figure 6: States' Regular UI Payment Timeliness Worsened Over Time, (April 1, 2020–March 31, 2021)



Source: OIG analysis of ETA-reported information

STATES WERE CHALLENGED BY THE VOLUME OF CLAIMS AND IMPLEMENTING NEW PROGRAMS

States were challenged by the volume of claims and the implementation of new UI programs. The COVID-19 pandemic was historic in its impact on the UI system. In 2019, DOL reported 11 million initial claims and 89 million continued claims for regular UI. In contrast, from March 28, 2020, to March 14, 2021, DOL reported more than 101 million workers filed an initial claim for PUA or regular UI. In addition, during this same time period, DOL

reported 1.1 billion PUA, regular UI, or PEUC continued claims and approximately 647 million FPUC claims.[31]

In addition to the sheer volume, states had to develop new systems to implement the UI new programs, resulting in backlogs in processing claims for weeks and, in some cases, months.

ETA officials stated the new pandemic-related UI programs were stood up in record time for any new program and under a period when the UI program was facing unprecedented demand and claims volume. This occurred as states were forced to transition all staff to full remote work due to the pandemic and rapidly hire and train staff.

AS A RESULT, MILLIONS OF AMERICANS FACED LENGTHY DELAYS

Delays in UI payments have real, long-lasting effects on Americans. We previously reported[32] those effects include the inability to pay bills, increased credit card debt, high-interest rate borrowing, depleted savings, and food scarcity.

In 2019, the Bureau of Labor and Statistics reported 6.3 million Americans were among the "working poor," defined as those who worked at least 27 weeks but whose income fell below the official poverty level. Those same workers were also most likely to be service industry employees, the most susceptible occupation group to become unemployed due to the pandemic. Further, a 2020 National Endowment for Financial Education study indicated 52 percent of Americans are living paycheck to paycheck.

Despite these very real needs, we assess that, from April 1, 2020, through March 31, 2021, at least 6.2 million of 29 million Americans nationwide eligible for regular UI waited a month or more to receive their first UI payments. Additionally, the 4 states took at least 30 days to pay 492,109 of 3,601,594 (14 percent) PUA claimants.

Further, our analysis does not account for discouraged applicants, applicants that attempted to apply for UI but did not get a response or felt the process was too

[31] DOL did not track initial claims for PEUC since claimants were not required to file a separate application.
[32] COVID-19: States Struggled to Implement Cares Act Unemployment Insurance Programs, Report No. 19-21-004-03-315 (May 28, 2021), https://www.oig.dol.gov/public/reports/oa/2021/19-21-004-03-315.pdf

difficult to continue. ETA reports did not capture information on these individuals, and our analysis could not logically identify how many potential applicants were discouraged applicants. However, the Economic Policy Institute national survey[33] indicated the number could be in the millions.

OIG'S RECOMMENDATIONS

We recommend the Acting Assistant Secretary for Employment and Training:

1. Use data collected from monitoring and BAM reports to identify the areas of highest improper payments including fraud and create a plan to prevent similar issues in future temporary UI benefit programs.

2. Require states to have written policies and procedures, which apply lessons learned during the COVID-19 pandemic, to continue eligibility testing and BPC procedures during emergencies or other times of increased claims volume. These policies and procedures should include strategies to pay claimants timely.

3. Work with NASWA to update the IDH Participant Agreement to require state to submit the results of their UI fraud investigations.

4. Work with NASWA to ensure the IDH cross-matches are effective at preventing the types of fraud that were detected during the pandemic and regularly update using the results of state fraud investigations.

5. Work with the OIG and states to recover the greatest practicable amount of the $7,092,604 paid to claimants connected to likely fraudulent claims.

SUMMARY OF ETA'S RESPONSE

While ETA agreed or partially agreed to three of five recommendations, it expressed three primary concerns regarding the report. First, ETA stated the amount of case files reviewed was not statistically valid for reporting a national improper payment rate. We cautioned readers of this report that the improper payment rate presented is the result of our specific testing of the 4 states and is

[33] Economic Policy Institute, "Unemployment Filing Failures: New Survey Confirms that Millions of Jobless Were Unable to File an Unemployment Claim," Working Economics blog post (April 28, 2020), last accessed March 28, 2022, available at: https://www.epi.org/blog/unemployment-filing-failures-new-survey-confirms-that-millions-of-jobless-were-unable-to-file-an-unemployment-insurance-claim/

not intended to be projected to the nation. Also, ETA expressed concern that the OIG's methodological approach would misrepresent the PUA improper payment rate. The OIG's purpose was to determine if UI benefits were paid only to eligible individuals promptly rather than identifying an improper payment rate, which remains an ETA responsibility. The OIG maintains its characterization of these issues are accurately presented in our report.

Second, ETA stated the report repeats findings from prior OIG reports and alert memoranda but does not acknowledge the steps taken to address these concerns, specifically ETA's efforts to combat fraud in the UI program since February 2021. This is the first audit report to include case file testing, which provides an in-depth analysis of issues at the state-level.

Third, ETA stated the report failed to appropriately consider the challenges facing states and ETA during the pandemic. The OIG unequivocally acknowledges, in this report and others, that staff at ETA and states struggled during the COVID-19 pandemic as SWAs worked to ensure timely and accurate UI benefit payments of more than $870 billion to workers unemployed through no fault of their own. The OIG's recommendations in this report are partly intended to help alleviate such issues should the nation face another disaster.

We considered other technical comments provided by ETA and made clarifying adjustments as appropriate. For example, ETA technically disagreed with our Recommendation 3 and provided an alternative approach. The alternative approach involves ETA revising its reports to capture the tools or interventions used by a state to detect potential fraud issues (including the IDH) and include the aggregated data for outcomes (e.g., determination, overpayment amounts) of the issues detected by these tools or interventions. In our view, this alternative approach satisfies the intent of our recommendation.

We appreciate the cooperation and courtesies ETA extended us during this audit. OIG personnel who made major contributions to this report are listed in Appendix C.



Carolyn R. Hantz
Assistant Inspector General for Audit

EXHIBIT 1: FUNDING FOR THREE NEW KEY PANDEMIC-RELATED UI PROGRAMS, AS OF 3/14/20

Pandemic-Related UI Program	Funds Drawn Down Total	Funds Drawn Down in the 4 States
FPUC	$331,742,201,334	$92,987,427,406
PUA	95,666,665,202	29,988,852,388
PEUC	44,755,749,596	10,953,664,456
TOTALS	**$472,164,616,132**	**$133,929,944,250**

Source: ETA-reported data

EXHIBIT 2: COSTS PAID TO LIKELY FRAUDSTERS OR IDENTITY FRAUD CASES

In total, 951 claims filed in 28 different states were attached to likely fraudsters or identity fraud cases. States prevented payments to 495 of these UI claims; however, 456 claims received $7,092,604 in unemployment benefits from 14 different states.

State	Amount Paid to Likely Fraudsters of Victims of Identity Fraud
Arizona	$70,296
California	6,527,934
Florida	45,741
Georgia	11,287
Illinois	143,840
Kentucky	10,432
Louisiana	78,163
Massachusetts	3,552
Maryland	5,393
Michigan	112,183
New Jersey	1,846
Tennessee	3,500
Texas	58,920
Wisconsin	19,517
Total	**$7,092,604**

Source: OIG analysis of case files

EXHIBIT 3: TIMELINESS REPORTING BY STATE

REGULAR UI - TIMELINESS BY STATE				
State	Initial Claims Workload	Cases Paid Timely	Percentage Paid Timely	Did State Meet ETA's Timeliness Standard?
Alabama	362,723	279,441	83%	No
Alaska	75,906	45,587	60%	No
Arizona	395,813	288,731	73%	No
Arkansas	181,863	141,054	78%	No
California	4,613,109	2,707,352	59%	No
Colorado*	571,923	459,586	80%	No
Connecticut*	420,905	327,384	78%	No
Delaware*	65,718	50,025	76%	No
District of Columbia	91,628	47,550	52%	No
Florida	1,772,328	684,051	39%	No
Georgia*	1,007,163	742,173	74%	No
Hawaii	192,294	58,102	30%	No
Idaho	85,871	48,924	57%	No
Illinois	1,269,763	959,082	76%	No
Indiana	551,976	331,827	60%	No
Iowa*	287,677	226,174	79%	No
Kansas	374,968	278,224	74%	No
Kentucky	351,969	250,315	71%	No
Louisiana	418,031	369,465	88%	Yes
Maine	122,466	68,067	56%	No
Maryland*	330,205	189,859	57%	No
Massachusetts	1,028,245	660,543	64%	No
Michigan*	1,214,282	801,894	66%	No
Minnesota	42,418	38,081	90%	Yes
Mississippi	249,314	126,145	51%	No
Missouri	355,333	281,503	79%	No
Montana	14,040	10,867	77%	No
Nebraska	87,100	57,355	66%	No
Nevada*	483,554	294,747	61%	No

REGULAR UI - TIMELINESS BY STATE				
State	Initial Claims Workload	Cases Paid Timely	Percentage Paid Timely	Did State Meet ETA's Timeliness Standard?
New Hampshire	124,591	75,916	61%	No
New Jersey*	725,240	532,711	73%	No
New Mexico	99,693	63,110	63%	No
New York	2,235,140	1,214,593	54%	No
North Carolina	721,891	436,889	61%	No
North Dakota	71,912	63,550	88%	Yes
Ohio	826,516	356,790	43%	No
Oklahoma	299,210	233,494	78%	No
Oregon	440,778	233,110	53%	No
Pennsylvania	1,240,729	738,662	60%	No
Puerto Rico	278,772	94,886	34%	No
Rhode Island	139,518	122,900	88%	Yes
South Carolina	361,665	267,186	74%	No
South Dakota	39,445	29,868	76%	No
Tennessee	523,490	367,647	70%	No
Texas	1,983,897	1,433,989	72%	No
Utah	137,010	106,080	77%	No
Vermont*	78,600	57,594	73%	No
Virgin Islands	7,804	730	9%	No
Virginia	593,101	500,080	84%	No
Washington	536,428	356,521	66%	No
West Virginia	140,099	100,518	72%	No
Wisconsin	370,170	240,244	65%	No
Wyoming*	32,283	28,591	89%	Yes

Source: OIG analysis of information publicly reported by ETA for April 1, 2020, to March 31, 2021
*State did not traditionally utilize a waiting week—used the 21-day standard

APPENDIX A: SCOPE, METHODOLOGY, & CRITERIA

SCOPE

This audit covered DOL's and states' UI benefit programs including, but not limited to, regular UI, PUA, PEUC, and FPUC. Our testing covered the period March 28, 2020, to March 14, 2021.

METHODOLOGY

This performance audit was conducted remotely and included an in-depth analysis of four states: California, Georgia, Michigan, and Kentucky (4 states). Survey questionnaires were sent to an additional 49 SWAs. We completed this audit in accordance with Generally Accepted Government Auditing Standards (GAGAS).

To answer our audit objective, we reviewed the CARES Act, CAA, ETA guidance, OMB guidance, the Social Security Act, and other criteria as required. We performed internal control procedures and interviews with the Office of Unemployment Insurance (OUI) national office and at the relevant OUI regional offices. For the 4 states, we analyzed internal controls, reviewed policies and procedures, conducted walkthroughs, and interviewed key agency personnel. Additionally, we statistically selected claimants to test case files for eligibility including fraud. In conjunction, with data selected for in-depth analysis we analyzed public data to assess the timeliness of payments for all 53 SWAs. Based on our initial testing, we created survey questionnaires and sent to non-selected states. The audit team administered 49 survey questionnaires to SWAs not included in in-depth analysis and received 44 responses.

We reviewed and analyzed public summary data available from the states on UI claims and funding.

SAMPLING PLAN

Statistical Sampling Plan

To perform our audit, we judgmentally selected 4 states for more intense analysis. To determine which states would be selected for more in-depth analysis, we performed a risk assessment using several risk factors. Specifically, we assessed program funding amounts, law enforcement intelligence,

congressional interest, and media reports. Based on this analysis, we selected California, Georgia, Kentucky, and California.

This audit focused on UI benefit payments made between March 28, 2020, and March 14, 2021. As of March 14, 2021, SWAs had drawn down $472.2 billion in federal funds to pay UI benefits for PUA, PEUC, and FPUC (see Exhibit 1). Of that $472.2 billion, almost a third (28 percent) was drawn down by the 4 states selected.

Based on data submitted by states in response to an IG subpoena, we identified the population of claimants who received an initial PUA program payment or regular UI program payment with an FPUC supplemental payment from March 28, 2020, to September 30, 2020. In total, from March 28, 2020, to September 30, 2020, the 4 states submitted claims data for 9,546,807 claimants and $71,663,117,052 in benefits for the PUA and FPUC programs.

We used the stratified random sampling method to select a sample from the universe of PUA and regular UI claimants. The total sample size for the 4 states was 214 with 98 PUA claimants and 118 regular UI claimants with a FPUC supplement. Based on our sample size, the confidence level was 95 percent with a 7 percent precision rate.

Non-Statistical Sampling Plan

For each of the 4 states selected for in-depth analysis, we obtained a universe of PUA claimants, from March 28, 2020, to March 14, 2021. From these universes, we judgmentally selected 10 claimants from each to test under the revised eligibility requirements of the CAA.

RELIABILITY ASSESSMENT

We assessed the reliability of computerized data provided by states. We evaluated the appropriateness of the data provided by assessing the data, controls over the data, and when possible, corroborated it to public data. Specifically, the audit team performed analytical tests of the data and inquired with data analysts for any data discrepancies. We assessed controls implemented by states over pandemic-related UI programs and information technology. The audit team also corroborated PUA claims against public reports. Finally, as part of testing, the audit team traced the data provided by the states to claimant case files.

INTERNAL CONTROLS

A performance audit includes an understanding of internal controls considered significant to the audit objective and testing compliance with significant laws, regulations, and other requirements. In planning and performing our audit, we considered whether internal controls significant to the audit objective were properly designed and placed in operation. This included reviewing policies and procedures. We confirmed our understanding of these controls and procedures through interviews and the review and analysis of documentation. We evaluated internal controls used for reasonable assurance. Our consideration of internal controls for administering key pandemic-related UI programs would not necessarily disclose all matters that might be reportable conditions.

CRITERIA

- Coronavirus Aid, Relief, and Economic Security Act, Public Law 116-136 (March 27, 2020)
- Consolidated Appropriations Act, 2021, specifically Division N, Title II, Subtitle A, the Continued Assistance for Unemployed Workers Act of 2020 (December 27, 2020)
- American Rescue Plan Act of 2021 (Pub. L. 117-2), specifically Title IX, Subtitle A, Crisis Support for Unemployed Workers (March 11, 2021)
- Section 303 of the Social Security Act (42 U.S.C. 503) (August 14, 1935)
- Office of Management and Budget Memorandum 20-21, Implementation Guidance for Supplemental Funding Provided in Response to the Coronavirus Disease 2019 (April 10, 2020)
- Unemployment Insurance Program Letter 23-20, Program Integrity for the Unemployment Insurance (UI) Program and the UI Programs Authorized by the CARES Act of 2020 - Federal Pandemic Unemployment Compensation (FPUC), Pandemic Unemployment Assistance (PUA), and Pandemic Emergency Unemployment Compensation (PEUC) Programs (May 11, 2020)
- Unemployment Insurance Program Letter 28-20, Addressing Fraud in the Unemployment Insurance (UI) System and Providing States with Funding to Assist with Efforts to Prevent and Detect Fraud and Identity Theft and Recover Fraud Overpayments in the Pandemic Unemployment Assistance (PUA) and Pandemic Emergency Unemployment Compensation (PEUC) Programs (August 31, 2020)
- Unemployment Insurance Program Letter 04-01, Payment of Compensation and Timeliness of Determinations during a Continued Claims Series (October 27, 2000)
- Unemployment Insurance Program Letter 04-17, Disclosure of Confidential Unemployment Compensation (UC) Information to the

Department of Labor's Office of Inspector General (OIG) (December 16, 2016)

- Unemployment Insurance Program Letter 04-17, Change 1, Requirement for States to Refer Allegations of Unemployment Compensation (UC) Fraud, Waste, Abuse, Mismanagement, or Misconduct to the Department of Labor's (Department) Office of Inspector General's (DOL-OIG) and to Disclose Information Related to the Coronavirus Aid, Relief, and Economic Security (CARES) Act to DOL-OIG for Purposes of UC Fraud Investigation and Audits (August 3, 2021)

APPENDIX B: AGENCY'S RESPONSE TO THE REPORT

U.S. Department of Labor

Employment and Training Administration
200 Constitution Avenue, N.W.
Washington, D.C. 20210

September 23, 2022

MEMORANDUM FOR: CAROLYN R. HANTZ
Assistant Inspector General for Audit

FROM: BRENT PARTON
Acting Assistant Secretary

SUBJECT: *COVID-19: ETA and States Did Not Protect Pandemic-Related Unemployment Insurance (UI) Funds from Improper Payments, Fraud, or Payment Delays*, Report Number: 19-22-00X-03-315

The Department of Labor's (Department) Employment and Training Administration (ETA) appreciates this opportunity to respond to the above-referenced Office of Inspector General (OIG) draft report.

ETA recognizes the OIG's crucial role under the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Pub. L.116-136, in helping to combat fraud and abuse within the Unemployment Insurance (UI) programs. Additionally, ETA will continue to explore, research, identify, and provide states with new tools, resources, strategies, and guidance, as warranted, to help states combat the continually changing and new types of sophisticated fraud impacting the UI system. Similarly, in June 2022, the Government Accountability Office (GAO) published multiple reports that provided a thoughtful account of the struggles and challenges that faced the UI system during the COVID-19 pandemic.

The OIG's draft report primarily focuses on a review of activities and claims during the first few months of the pandemic (March 28, 2020 to September 30, 2020) and repeats many of the same observations made by the OIG in an alert memorandum issued on February 22, 2021.[1], and OIG reports issued on August 7, 2020[2], and on May 28, 2021.[3] ETA has taken many actions since the time of these earlier OIG reports.

ETA's Specific Concerns Regarding the Content of the OIG's Draft Report. As stewards of taxpayers' money, ETA works in partnership with the OIG to improve the success and

[1] Alert Memorandum: The Employment and Training Administration (ETA) Needs to Ensure State Workforce Agencies (SWA) Implement Effective Unemployment Insurance Program Fraud Controls for High Risk Areas, Report No. 19-21-002-03-315.
[2] COVID-19: More Can Be Done to Mitigate Risk to Unemployment Compensation Under the CARES Act, Report No. 19-20-008-03-315.
[3] COVID-19: States Struggled to Implement Cares Act Unemployment Insurance Programs, Report No. 19-21-004-03-315.

effectiveness of its programs, policies, and services. However, during the OIG's inquiries leading to this draft report, ETA expressed concerns regarding the OIG's audit and provided extensive technical assistance and comments to ensure that any recommendations accurately represent struggles within the UI system. ETA is disappointed that some of this earlier input is not reflected in the draft report. It is also unfortunate that ETA does not feel that it was given adequate time to provide meaningful technical comments on this draft report before its issuance..[4] As a result, ETA notes areas that merit comment as well as identifies errors and concerns regarding the content of the draft report, before responding to the recommendations.

- *The draft report includes a purported improper payment rate based on the review of 214 cases reviewed from only four states, which is not statistically valid for reporting a national rate*. ETA understands the OIG used case files from four states to develop its own improper payment rate for the UI program and the pandemic UI programs, which contradict ETA's statistically valid, and Office of Management and Budget (OMB)-approved, Benefit Accuracy Measurement (BAM) improper payment estimates. Throughout the draft report, the OIG makes questionable comparisons between the OIG-developed pandemic era improper payment data and the pre-pandemic BAM data. The OIG compares BAM data (which does not include the Pandemic Unemployment Assistance [PUA] program) to the OIG's own estimates (which do include the PUA program) and draws conclusions that appear to be stated as facts based on the OIG's case analysis. As noted, the PUA program had different eligibility requirements from the regular UI program and so causes of improper payments would likely be different between the programs. Further, ETA is uncertain if any of the cases evaluated by the OIG were investigated or adjudicated by states to confirm the conclusions reached by the OIG's interpretation of an improper payment and/or identification of potential fraud.[5] Without proper investigation and determination on each of the cases selected by the OIG, the OIG's identified improper payments and potential fraud in this report are unconfirmed and not comparable to ETA's BAM improper payment estimates. ETA is also extremely concerned that the OIG's methodological approach will misrepresent the PUA improper payment rate. Even if the OIG's reviewers had sufficient knowledge of all of the complex PUA eligibility requirements and how the requirements changed over time, it does not appear that the OIG's sample of claims is sufficient to yield a

[4] In May 2022, ETA provided substantive feedback consisting of approximately 80 comments to a document the OIG referred to as a "messaging document," which was 15 pages in length. On August 30, 2022, the OIG provided ETA with this draft report, which was significantly longer and contained different content than the earlier "messaging document" and did not reflect much of the input ETA previously provided. The OIG instructed ETA to provide any technical comments within 24 hours. When ETA conveyed that 24 hours was inadequate to provide meaningful comments, the OIG decided to issue the draft report "as is." Consequently, there are discrepancies and inaccurate statements in the draft report that ETA must detail in this response, as it is the only avenue available to correct these inaccuracies. Regrettably, this approach is contrary to historical practice, and with sufficient time and collaboration, the OIG and ETA could have worked together to improve the draft report, and correct inaccurate statements prior to its publication. ETA stands ready to work in partnership with the OIG to ensure future publications accurately portray the successes and challenges of the UI programs.

[5] Throughout the draft report, the OIG uses the term "likely fraudulent" to describe some of the 214 cases reviewed from the four states. ETA is not sure what the OIG means when using the term "likely fraudulent." It implies that these are cases that were flagged as needing additional investigation, but an ultimate determination was not made on whether the claim was fraudulent.

statistically valid estimate of a PUA improper payment rate. It is inappropriate to publish data that may inaccurately represent the actual PUA improper payment rate.

- *ETA offers a number of technical comments regarding the OIG's conclusions about the purported five common causes of the high level of improper payments, including fraud, discussed by the OIG on pages 12 – 22 of the draft report.*

    - First, the draft report discusses that states did not perform some basic required eligibility determinations and suspended some payment control procedures. ETA identified these issues early in the pandemic. ETA issued guidance on May 11, 2020, reminding states that certain benefit payment control procedures must continue and were applicable to the CARES Act Unemployment Compensation (UC) programs, as well. *See* Unemployment Insurance Program Letter (UIPL) No. 23-20. ETA also reviewed state operations and in June 2020, notified many states of the need to continue to implement essential eligibility requirements such as weekly certifications by claimants.

    - Second, the draft report applies an unrealistic standard in evaluating ETA's implementation of the CARES Act UC programs. For example, the draft report indicates that ETA failed to provide timely oversight and monitoring of the states' operations of the CARES Act UC programs. Specifically, page 14 of the draft report recognizes that ETA's oversight actions started as early as May 10, 2020 (regarding Kentucky), June 15, 2020 (regarding Michigan) and July 2020 (regarding California). However, the OIG concludes these actions were untimely and too late. The programs were enacted on March 29, 2020. During this period, ETA also had to issue guidance and provide technical assistance to states and states needed time to stand up these major new programs. It is unrealistic to hold ETA to a standard of immediately finding all issues with state operations. ETA was gathering information on states' implementation of the programs and began providing states with information on incidences where states did not properly implement the programs beginning in May and June of 2020 (six to ten weeks after the programs were enacted). ETA was engaged with states throughout the pandemic, calling out problems with states' implementation and operation of the programs and providing guidance and technical assistance to address the problems as they were identified.

      ETA also notes that many other factors contributed to the high incidences of fraud in these programs, including the sheer unprecedented volume of claims and workload, antiquated state systems, the low level of staffing and funding prior to the pandemic, the need to on-board new staff quickly with minimal training, and sophisticated fraud attacks on a scale which the UI system had not previously encountered. It is also important to note the structure of the PUA program as contributing to these incidences of fraud – including the PUA self-certification provision and no requirement to substantiate prior self-employment until January 2021 – and the statutory allowance of extensive backdating. These statutory provisions contributed to a historic level of fraud as sophisticated domestic and international criminal organizations exploited program vulnerabilities.

- Third, the draft report repeats content from an earlier OIG report about how the self-certification requirements for PUA eligibility made the program susceptible to fraud. The Department agreed with the OIG about this concern, but the clear and unambiguous statutory language set out in the original CARES Act enactment created these requirements. The Department worked with Congress and provided legislative technical assistance to modify the requirement in a later enactment on December 29, 2020, by adding a requirement that PUA claimants substantiate their prior self-employment.

- Fourth, the draft report erroneously describes the temporary one-quarter suspension of BAM during the COVID-19 pandemic as a cause of negative impacts on ETA's fraud prevention and detection efforts. This is not accurate. The BAM program is primarily an after-the-fact quality control diagnostic program that is also used to estimate improper payment rates. The BAM program is not a benefit payment control program for detecting, preventing, or combating fraud in the UI system. BAM was not designed to prevent improper payments because it is a review of payments after they are already made. Also, states had to make difficult decisions and allocate scarce resources to ensure claimants received pandemic-related UI funds as quickly as possible, including diverting BAM staff to perform these more urgent and necessary tasks. ETA only allowed for the suspension of the BAM program for the quarter ending June 30, 2020. This was at the very start of the COVID-19 pandemic and resulting labor market shut down and was when states were experiencing the most significant increases in claims and had not yet had time to add additional staff. It was a pragmatic and practical action to use the BAM staff, who are highly trained in the UC program, to help address the influx of claims. It is unfortunate the OIG erroneously calls this action out as a cause of improper payments.

- Fifth, the draft report raises the issue of the OIG's access to state UI data for audit purposes, in addition to the current access for investigative purposes. This issue has been thoroughly discussed in prior OIG reports and alert memoranda and the Department has been working collaboratively with the OIG to find an appropriate path to address the issue. ETA is concerned that the OIG's mischaracterization of the Department's efforts to provide the OIG access to state UI data portrays ETA as opposing or obstructing the effort to provide such access. This characterization is unreasonable and is not reflective of ETA's actions. ETA has acted to provide the OIG the requested access and continues to pursue efforts in good faith to do so. However, the Administrative Procedure Act (APA) limits the actions that can be immediately taken. In the Department of Labor's Spring 2022 regulatory agenda, ETA announced that it is considering an update to the regulations that may, among other things, require states, as a condition of receiving their UI administrative grant under the Social Security Act, to provide the OIG with ongoing access to UI data for audit purposes, in addition to investigative purposes, and that ETA intends to publish a Request for Information concerning this matter in November 2022.

Until the existing regulations can be revised, ETA has been taking interim actions to support the OIG having access to UI data for both purposes. In August 2021, using authority provided under the CARES Act, ETA issued guidance to states requiring states to provide the OIG access to UI data for investigations and audits for weeks of unemployment through the expiration date of the CARES Act programs. The Department relied on its authority under the CARES Act to issue implementing guidance without going through notice and comment rulemaking. In addition, and separate from the CARES Act, the guidance reiterated an ongoing requirement to disclose such data to the OIG for fraud investigations and rescinded prior guidance to make clear that such disclosures do not require any written agreement between the state and the OIG.

Also, in August 2021, ETA made available to states an opportunity to seek fraud prevention grants and conditioned these grants on states providing the OIG access to state UI data. Fifty states have been awarded these grants, which currently have a performance period through December 2023. ETA has committed to the OIG that it is actively exploring future opportunities to continue the requirement for states to provide the OIG access to data until the regulations can be revised. Finally, as mentioned above, the Department has begun the process of pursuing a change in the regulations set forth at 20 CFR Part 603, potentially including requiring states to provide UI data for audits.

- *The draft report repeats findings from prior OIG reports and alert memoranda but does not acknowledge actions taken by the states and Department to address these concerns.* ETA has taken many actions, including a number of actions recommended by the OIG, to support states in addressing the categories of fraud discussed by the OIG in the time since the period of claims reviewed by the OIG in this draft report had passed. Specifically, ETA has taken the following actions on the identified types of potential fraud:

    - ***Claims filed in multiple states*** – The number of states using the UI Integrity Center's Integrity Data Hub's (IDH) Multi-State Cross Match (MSCM) functionality has significantly increased. Using this database, the IDH can identify if the same UI claims data elements are being used across multiple states (i.e., flagging a Social Security number that is being used in more than one state). Page 13 of the draft report discusses the IDH and states that "…the multistate cross-match only flags Social Security numbers that are used across four different states." This is inaccurate as the IDH's multistate cross-match flags every occurrence where a Social Security number is used in more than one state. Also, the MSCM provides a lookback capability to identify after-the-fact matches based on new claims or fraud activity data submitted to the IDH.

    - ***Claims filed in the name of deceased individuals*** – In addition to other identity (ID) verification components, the IDH's Identity Verification (IDV) solution includes a cross match to the Death Master File to identify claims filed using identities of deceased individuals. The IDV solution became available in the IDH in July 2020, and provides an advanced, centralized ID verification resource

enabling states to assess whether an individual is using a false, stolen, or synthetic ID.

- ***Claims using suspicious email accounts*** – The IDH has a resource that allows participating states to cross match their claims against a database of suspicious email domains that have been associated with fraudulent activity. The IDH flags claims with suspicious email domains for further investigation by the submitting state.

- ***Claims filed by people who are incarcerated*** – The Department, in partnership with the Social Security Administration (SSA), established a secure incarceration data exchange between the Interstate Connection Network (ICON) and the SSA's Prisoner Update Processing System (PUPS). The incarceration data exchange provides state UI agencies with the ability to cross match UI claims information with SSA's prisoner data to aid states in determining if an individual meets UI eligibility requirements. States are also encouraged to use other cross matches to identify incarcerated individuals. *See* UIPL No. 01-22.

- ***Claims using suspect bank accounts*** – The IDH recently implemented a Bank Account Verification (BAV) service, which provides states with access to near real-time information to proactively identify and authenticate bank account information provided by the UI claimant by validating the account's status and ensuring the individual identified as the claimant is the account owner and/or authorized user prior to initiating the UI benefit payment.

  However, under the APA, the Department must exercise this authority through notice and comment rulemaking because it would be a new interpretation of the statute that would affect the rights and obligations of the regulated community.

- *The draft report fails to appropriately consider the realities of the challenges facing states and ETA during the pandemic, especially in the first few months*. The draft report makes some passing mentions of the challenges facing states during the pandemic, but it fails to factor in these challenges in making its findings and observations. State UI agencies entered the pandemic after experiencing the lowest claims workload, and thus lowest administrative funding, in 50 years, which significantly impacted resources and staffing levels. In addition, ETA's UI-related staffing was at low levels at the start of the pandemic and ETA received no new funding for staffing until the enactment of the American Rescue Plan Act (ARPA) in March 2021. As the pandemic shutdowns started impacting the nation's labor market, states had to ramp up staffing quickly to respond to the unprecedented increase in claims volume and add new staff with minimal time for proper training. Also, during this time, states and ETA had to quickly transition to all-remote operations to mitigate the spread of COVID-19. Moreover, significant new programs had to be implemented at the same time as other UI programs dealt with record workloads. The UI programs created by the CARES Act are complex and it was essential that the Department have sufficient time to properly analyze the requirements and develop appropriate guidance. In particular, the PUA program covered a previously ineligible population of unemployed individuals (self-employed and gig workers). This

meant that the existing UI program requirements and systems could not be leveraged for PUA implementation. The requirements, systems, and related procedures had to be created "from the ground up" by ETA and the states. Despite these challenges, ETA published the initial guidance to states for implementing three key programs (the Federal Pandemic Unemployment Compensation [FPUC] program, the Pandemic Emergency Unemployment Compensation [PEUC] and the PUA program) within 14 days of the enactment of the CARES Act. This guidance was further amplified through training and outreach, such as webinars conducted to explain the guidance and responses to questions from states. Also, as states began implementing these programs, new issues required revisions to existing program operating instructions, as well as the development of additional guidance.

ETA recognizes the important work performed by individuals in the state UI agencies. They are responsible for delivering over $870 billion in UC to over 53 million workers during the pandemic, which played a major role in mitigating the pandemic's negative impact on the U.S. economy during very volatile times. These individuals worked long hours and had to be creative in implementing new programs quickly to meet the highest demand for UC in the history of the program. All this considered, the achievements of states and ETA are noteworthy. This is not to say that the Department does not recognize the very real impact that implementation delays had on unemployed workers and their families. The pandemic highlighted problems in the UC programs that led to customer service suffering, benefits being delayed, and criminals attacking the system and perpetrating unacceptable fraud. To ensure states are better prepared for future economic downturns, the Department is building on investments, such as using funding appropriated under ARPA, to provide states with grants, resources, and strategies to detect and prevent fraud, promote equitable access, and improve the timely payment of UC, while actively working to help states modernize their information technology (IT) systems.

ETA believes that the draft report could have provided a more balanced view when assessing the implementation of the UC programs during the COVID-19 pandemic. Specifically, it is important to acknowledge that states took, on average, 50 days to implement the PEUC program, 38 days to implement the PUA program, and 25 days to implement the FPUC program. The ability of states to provide benefit payments within one to two months for a new, temporary UI program is a very impressive achievement given the extensive, complex requirements and activities that were necessary for implementation.

ETA's Efforts to Combat Fraud in the UI Program. The bulk of the draft report focuses on an analysis of a small number of cases in four states occurring between March 28, 2020 and September 30, 2020. As stated earlier, the draft report restates many of the findings and observations covered in earlier OIG reports and alert memoranda, especially the alert

memorandum issued on February 22, 2021.[6] ETA has taken many actions since February 2021 to actively and aggressively address fraud in the UC programs, including a number of actions recommended by the OIG, to support states. UI program integrity remains a top agency priority. ETA's efforts to improve integrity in the UC programs include providing extensive guidance, technical assistance, and funding to states to support them in combatting fraud and reducing improper payments; this includes strengthening fraud prevention and detection and improving overpayment recovery activities. ETA has invested in new tools, datasets, and resources and made these available to states to aid states in more quickly identifying potential fraud. ETA continues to develop and oversee implementation of fraud mitigation strategies to address emerging and evolving fraud risks. Since the publication of the February 2021 alert memorandum, ETA has taken the following actions to support states' efforts to address fraud in the UI programs:

- ETA continues providing guidance and resources to states in the form of UIPLs and Training and Employment Notices (TENs) that alert states regarding new UI program requirements, important program trainings, UI integrity resources, and operational recommendations. ETA has included a focus on fraud prevention and program integrity in the majority of its recent guidance documents and has issued a total of 21 program integrity-related UIPLs and TENs since February 2021. A list of these guidance documents is provided as Attachment I of this response.

- ETA continues to provide fraud prevention grant opportunities to states to strengthen their efforts. Prior to February 2021, ETA announced the availability of up to a total of $200 million in fraud prevention grants and awarded states a total of $199.7 million in funding to prevent and detect fraud and recover overpayments in the PUA and PEUC programs. Since February 2021, ETA has announced the availability of up to an additional $465 million (a total of up to $665 million) in funding available to states for fraud prevention and detection and overpayment recovery activities. *See* UIPL No. 28-20, Change 2, issued August 11, 2021; UIPL No. 28-20, Change 4, issued July 22, 2022; and UIPL No. 22-21, issued August 11, 2021.

- Since July 2021, the Department has been deploying multidisciplinary technical assistance teams ("Tiger Teams") to states to conduct consultative assessments to address state-specific, unique challenges and to collect best practices on preventing and detecting fraud, promoting equitable access, reducing backlogs, and ensuring timely payment of benefits. To date, the Department's "Tiger Teams" have worked with 24 states to address immediate needs and issues to achieve improvements in operational processes and customer experiences, while also proposing solutions to address fraud and support more equitable access for legitimate claimants.

  ETA also provided a grant opportunity under UIPL No. 02-22, making available to states up to $200 million to support states in improving UC systems and processes following a

[6] Alert Memorandum: The Employment and Training Administration (ETA) Needs to Ensure State Workforce Agencies (SWA) Implement Effective Unemployment Insurance Program Fraud Controls for High Risk Areas, Report No. 19-21-002-03-315.

"Tiger Team" consultative assessment for fraud detection and prevention, promoting equitable access, and ensuring the timely payment of benefits, including backlog reduction, for all UC programs. Trends from the "Tiger Teams" recommendations are found at: https://oui.doleta.gov/unemploy/pdf/TigerTeamCohortTrendsJune_2022.pdf.

- ETA has included combatting UI fraud, in addition to reducing UI improper payment rates, as a National Priority for state UI agencies as part of the annual State Quality Service Plan (SQSP) process for Fiscal Years (FY) 2022 and 2023 (*see* UIPL No. 24-21 issued August 20, 2021, and UIPL No. 17-22 issued July 22, 2022). ETA also increased states' SQSP Integrity Action Plan (IAP) reporting requirements for the FY 2022 SQSP IAP by requiring states to begin providing a six-month IAP update to their integrity strategies. Furthermore, ETA developed a new IAP template for states' use in developing their FY 2023 SQSP IAP submissions and is requiring states to submit more comprehensive and detailed IAPs that address specific integrity topics, including fraud prevention and detection and overpayment recovery strategies in FY 2023.

- On March 22, 2021, the Department launched www.dol.gov/fraud, a website created for people to understand UI identity fraud, how to report it, and to provide resources to help victims. ETA worked closely with other federal and state agencies to consolidate the necessary steps to help victims of UI identity fraud and conducted victim testing to confirm the website's instructions were clear and easy to understand.

- Following the OIG's data analysis of UI claims data obtained from subpoenas and discussed in the alert memorandum issued on February 22, 2021, ETA developed a process to receive data from the OIG and share encrypted files with states that included the results of the OIG's analysis. ETA coordinated and oversaw delivery of this data to the states to aid state efforts in preventing fraud and in pursuing investigations on these claims. This was completed at the end of April 2021.

- ETA continues to provide funding and support to the UI Integrity Center to enhance existing tools and develop new resources for states to use to combat fraud, strengthen fraud prevention and detection of improper payments, enhance fraud management operations, and improve overpayment recovery efforts. ETA has strongly encouraged states to take advantage of the UI Integrity Center's resources, specifically the IDH. State participation in the IDH has increased significantly since February 2021, at which time only 39 states were using the Suspicious Actor Repository (SAR), 32 states were using the MSCM, and 21 states were using the IDV solution. To date, all 53 states have executed an IDH Participation Agreement, 50 states are using the SAR, 48 states are using the MSCM, and 41 states are using the IDV solution. ETA continues to work with all states to strengthen the robustness and frequency of how they are using these tools. In addition, the UI Integrity Center has made extensive enhancements to IDH functionally and developed new tools and resources to support states with UI integrity and fraud prevention activities. A list of these enhancements and resources is provided in Attachment II to this response.

- ETA continues to strengthen our partnership with the OIG by meeting regularly with the OIG to discuss emerging UI fraud issues, streamline communication with states, and coordinate fraud prevention and overpayment recovery efforts. ETA's activities occurring in partnership with the OIG are set out in Attachment III to this response.

- ETA has worked with states, federal law enforcement, and banks to facilitate conversations and aid in the recovery of fraudulently obtained and overpaid UI funds. ETA has provided guidance, technical assistance, coordination, and educational opportunities to state UI programs to help states navigate the complexities of the Automated Clearing House (ACH) network, banking regulations, law enforcement initiatives, and the many other challenges associated with overpayment recovery. These efforts are reflected in Attachment IV to this response.

- The Department continues to encourage states to strengthen ID verification processes and procedures and is exploring options to provide states with additional support in this area. The "Tiger Teams" have made recommendations to eight states to improve ID verification. The recommendation notes that the Department strongly encourages states to adopt an array of solutions and techniques to detect and fight fraud and to have robust strategies in place to verify the identity of individuals applying for UI benefits. On April 13, 2021, ETA issued guidance to highlight the importance of ID verification in ensuring the proper payment of unemployment benefits and to provide guidance to states on required administrative procedures when processing claims and determining UI eligibility in cases where an individual's identity is questionable. *See* UIPL No. 16-21. The Department is currently engaged with the General Services Administration (GSA) to explore the ID verification services available through GSA's login.gov. On March 31, 2022, an initial pilot began with a state UI agency to evaluate login.gov as a potential ID proofing solution for state UC programs. The Department is continuing to evaluate the pilot to examine how login.gov might be implemented in ways that best support equitable access and program integrity goals, as well as how the Department might extend the solution to other states.

Responses to the OIG Recommendations

Given the above observations, there are concerns that some of the OIG's recommendations, as written, will not result in the most effective contributions to improve the UI system. ETA has and continues to work with states to implement recommendations made by the oversight community, including but not limited to the OIG. Below, please find each of the OIG's recommendations contained in the draft report followed by ETA's proposed action steps to address them.

Recommendation 1: Use data collected from monitoring and BAM reports to identify the areas of highest improper payments including fraud and create a plan to prevent similar issues in future temporary UI benefit programs.

ETA Response: ETA has historically used, and will continue to use, the results from monitoring and the BAM program to identify top improper payment root causes. Although BAM does not

review episodic programs such as the CARES Act programs, identifying root causes for improper payments and their solutions in the regular UI program is one of the key purposes of the BAM program. ETA maintains an integrity strategic plan that is updated quarterly and the plan continuously evolves to address new and emerging risks to the UI program by incorporating integrity strategies focused on improper payment root cause reduction and fraud prevention, detection, and overpayment recovery. Also, ETA requires states to develop an IAP each year as part of the SQSP process and report improper payment reduction strategies for their top root causes of improper payments. ETA began requiring a six-month update to the IAP with the development of the FY 2022 SQSP. Furthermore, ETA is in the process of assessing fraud risks in the UI program using GAO's Fraud Risk Framework and documenting a UI fraud risk profile. Lastly, ETA notes future temporary UI programs are dependent on mass layoff events and are each the result of unique legislative enactments with their own eligibility requirements. It is difficult to anticipate how Congress will respond to future layoff events or structure new UI programs to meet an unforeseen emergency in the future. ETA stands ready to provide legislative technical assistance to Congress upon request to respond to future events or to develop some permanent emergency UC program(s).

ETA requests removal of this recommendation as it reflects activities already conducted by ETA.

Recommendation 2: Require states to have written policies and procedures, which apply lessons learned during the COVID-19 pandemic, to continue eligibility testing and BPC procedures during emergencies or other times of increased claims volume. These policies and procedures should include strategies to pay claimants timely.

ETA Response: ETA agrees in part with this recommendation and proposes an alternate approach to accomplish the result. ETA agrees with the principle that states must continue to conduct fundamental eligibility assessments (except where the law allows a specific waiver of a requirement, such as work search during the pandemic) and continue benefit payment control efforts in times of mass layoff events. ETA notes that when states were processing claims during the pandemic, ETA never approved the discontinuance of compliance with statutory eligibility requirements or the discontinuance of the benefit payment control operations. In fact, ETA issued guidance early on (May 11, 2020) stressing the importance of states continuing to use essential payment controls during the pandemic. *See* UIPL No. 23-20. ETA believes a more effective approach to ensuring states continue eligibility assessments in future mass layoff events is to issue new guidance, making clear these are not activities that can be suspended in future mass layoff events absent explicit statutory authorization to do so. The guidance would also reiterate the guidance set out in UIPL No. 23-20 about the requirement to continue required benefit payment control activities and procedures. ETA has and will continue collecting, assessing, and sharing lessons learned from the pandemic experience with the states. ETA intends to use such information to guide future program improvements as part of the implementation of the UI provisions under ARPA and future UI reform proposals.

Additionally, in the Biden-Harris Administration's FY 2023 budget, ETA notes that UI reform is needed from Congress. This is, in part, because the pandemic served to expose the limitations in benefit access, adequacy, and eligibility that exist for far too many workers. Standing up new programs effectively overnight would not have been necessary if the regular UI system were

updated to cover all workers in the modern labor force, to be easily scalable and automatically responsive to economic downturns, and to provide adequate benefit levels in every state to meet the essential needs of individuals and families during periods of unemployment. ETA is available to work with Congress on reforms to the permanent UI program to strengthen the program overall and improve its responsiveness during economic downturns.

Recommendation 3: Work with NASWA to update the IDH Participant Agreement to require state to submit the results of their UI fraud investigations.

ETA Response: ETA does not agree with this recommendation and offers a more workable alternative. ETA contends that a better approach is to revise certain required ETA reports to capture the tools or interventions used by a state to detect potential fraud issues (including the IDH) and include the aggregated data for outcomes (*e.g.*, determination, overpayment amounts) of the issues detected by these tools or interventions. This approach would be more effective and would allow ETA to gather information on IDH outcomes to track the results of investigations/determinations based on the use of IDH and other information.

Recommendation 4: Work with NASWA to ensure the IDH cross matches are effective at preventing the types of fraud that were detected during the pandemic and regularly update using the results of state fraud investigations.

ETA Response: ETA concurs with this recommendation and will work with NASWA to achieve this result. ETA regularly monitors the NASWA UI Integrity Center's operations and IDH functionality enhancements. Recently, the UI Integrity Center has substantially increased IDH functionality to help states prioritize and analyze IDH results and to obtain outcomes data from states. As discussed in Attachment II, the UI Integrity Center has completed two IDH Results Management projects, which includes IDH Results Prioritization that went live on June 22, 2021, and IDH Results Sorting, Filtering, and Outcomes that went live on May 5, 2022. IDH Results Prioritization allows states to receive IDH results in order of priority level to help states more quickly identify emerging UI fraud schemes. IDH Results Sorting, Filtering, and Outcomes allows states to analyze and manage IDH results quickly and easily. It also allows states to provide outcomes data to the IDH team which helps the IDH team better understand how states are utilizing the IDH to continuously improve the effectiveness of the IDH cross matches and datasets. ETA has supported the recently added Bank Account Verification functionality to the IDH.

ETA suggests revising this recommendation to state that ETA should work with the UI Integrity Center to ensure the IDH cross matches and functionalities are effective at detecting and preventing the types of fraud that were detected during the pandemic and in addressing emerging fraud schemes. ETA will work with NASWA to ensure appropriate evaluations are conducted regarding the effectiveness of the IDH tools and functionalities.

Recommendation 5: Work with the OIG and states to recover the greatest practicable amount of the $7,092,604 paid to claimants connected to likely fraudulent claims.

ETA Response: ETA agrees in part with this recommendation. As stated earlier in this response, ETA has and continues to work with the OIG, other federal law enforcement, state UI agencies, and banks to facilitate and aid the recovery of fraudulently obtained and overpaid UI funds. ETA will continue to provide states guidance and technical assistance regarding their efforts to investigate fraud, issue determinations, and establish overpayments, and the recovery of improper payments, including fraudulent overpayments.

However, as discussed earlier in this response, ETA is unsure what the OIG means by "likely fraudulent" claims. Until a state has conducted an investigation and a determination is made that the claim is improper or fraudulent, it cannot pursue recoveries for these specific cases. Actual determinations of overpayments must first be established before recoveries can be pursued.

Again, ETA is committed to continuing to help states with the recoveries of appropriately established overpayments. From April 2020 through June 2022, states have reported $818,820,337 in total fraud overpayment recoveries.

Attachment I

Integrity-Related Unemployment Insurance Program Letters (UIPL) and Training and Employment Notices (TEN) issued since February 2021

UIPLs

- UIPL No. 28-20, Change 4, *Support for States to Resolve Outstanding Items from the Expired Coronavirus Aid, Relief, and Economic Security (CARES) Act Unemployment Compensation (UC) Programs, Including Additional Funding to Assist States with Reporting and Detection and Recovery of Overpayments*, issued July 22, 2022

- UIPL No. 17-22, *Additional Planning Guidance for the Fiscal Year (FY) 2023 Unemployment Insurance (UI) State Quality Service Plan (SQSP)*, issued July 22, 2022

- UIPL No. 16-22, *Announcement of the Pandemic Unemployment Assistance (PUA) Improper Payment Estimate Reviews and the Cancellation of the 2022 Benefit Accuracy Measurement (BAM) Paid Claims Peer Reviews*, issued July 14, 2022

- UIPL No. 02-22, *Grant Opportunity to Support States Following a Consultative Assessment for Fraud Detection and Prevention, Promoting Equitable Access, and Ensuring the Timely Payment of Benefits, including Backlog Reduction, for All Unemployment Compensation (UC) Programs*, issued November 2, 2021

- UIPL No. 01-22, *Announcing the Availability of an Incarceration Data Exchange and Instructions to Access the Data Exchange between the Unemployment Insurance (UI) Interstate Connection Network (ICON) and the Social Security Administration (SSA) Prisoner Update Processing System (PUPS)*, issued October 29, 2021

- UIPL No. 16-20, *Change 6, Pandemic Unemployment Assistance (PUA) Program: Updated Operating Instructions and Reporting Changes*, issued September 3, 2021

- UIPL No. 24-21, *Additional Planning Guidance for the Fiscal Year (FY) 2022 Unemployment Insurance (UI) State Quality Service Plan (SQSP)*, issued August 20, 2021

- UIPL No. 22-21, *Grant Opportunity to Support States with Fraud Detection and Prevention, Including Identity Verification and Overpayment Recovery Activities, in All Unemployment Compensation (UC) Programs*, issued August 11, 2021

- UIPL No. 28-20, Change 2, *Additional Funding to Assist with Strengthening Fraud Detection and Prevention Efforts and the Recovery of Overpayments in the Pandemic Unemployment Assistance (PUA) and Pandemic Emergency Unemployment Compensation (PEUC) Programs, as well as Guidance on Processes for Combatting Identity Fraud*, issued August 11, 2021

- UIPL No. 04-17, Change 1, *Requirement for States to Refer Allegations of Unemployment Compensation (UC) Fraud, Waste, Abuse, Mismanagement, or Misconduct to the Department of Labor's (Department) Office of Inspector General's*

Attachment I

(DOL-OIG) and to Disclose Information Related to the Coronavirus Aid, Relief, and Economic Security (CARES) Act to DOL-OIG for Purposes of UC Fraud Investigation and Audits, issued August 3, 2021

- UIPL No. 20-21, *State Instructions for Assessing Fraud Penalties and Processing Overpayment Waivers under the Coronavirus Aid, Relief, and Economic Security (CARES) Act, as Amended*, issued May 5, 2021
- UIPL No. 19-21, *Benefits Held by Banks and Financial Institutions as a Result of Suspicious and/or Potentially Fraudulent Activity and the Proportional Distribution Methodology Required for Recovering/Returning Federally Funded Unemployment Compensation (UC) Program Funds*, issued May 4, 2021
- UIPL No. 16-21, *Identity Verification for Unemployment Insurance (UI) Claims*, issued April 13, 2021

TENs

- TEN No. 01-22, *Adjudications Virtual Training and Conference*, issued July 20, 2022
- TEN No. 24-21, *Encouragement for States to Use the Integrity Data Hub (IDH) available through the Unemployment Insurance (UI) Integrity Center*, issued May 5, 2022
- TEN No. 23-21, *Unemployment Insurance Interstate Benefits and Federal Programs Training*, issued March 14, 2022
- TEN No. 22-21, *2022 Unemployment Insurance (UI) State Information Data Exchange System (SIDES) Seminar*, issued March 3, 2022
- TEN No. 16-21, *Announcing Grant Awards Made to States Selected to Participate in the Unemployment Insurance (UI) Information Technology (IT) Modernization Project - Claimant Experience Pilot*, issued December 2, 2021
- TEN No. 15-21, *Announcing the National Association of State Workforce Agencies (NASWA) Unemployment Insurance (UI) Integrity Center's Behavioral Insights Toolkit*, issued November 17, 2021
- TEN No. 06-21, *Accessing Unemployment Insurance (UI) Identity Verification and Fraud Protection (Identity Proofing) Services using the U.S. Department of Labor's (Department) Blanket Purchase Agreements (BPA)*, issued September 15, 2021
- TEN No. 19-20, *2021 Unemployment Insurance (UI) State Information Data Exchange System (SIDES) Seminar*, issue March 15, 2021

Attachment II

Unemployment Insurance (UI) Integrity Center Enhancements and Resources (Since February 2021)

- Implementation of a Bank Account Verification (BAV) service. The BAV service provides states with access to near real-time information to proactively identify and authenticate bank account information provided by the UI claimant by validating the account's status and ensuring the individual identified as the claimant is the account owner and/or authorized user prior to initiating the UI benefit payment. The BAV service went into IDH production on February 15, 2022, and to date, 31 states are using the BAV service.

- Completion of two IDH Results Management projects, which includes IDH Results Prioritization that went live on June 22, 2021, and IDH Results Sorting, Filtering, and Outcomes that went live on May 5, 2022. IDH Results Prioritization allows states to receive IDH results in order of priority level to help states more quickly identify emerging UI fraud schemes. IDH Results Sorting, Filtering, and Outcomes allows states to analyze and manage IDH results quickly and easily. It also allows states to provide outcomes data to the IDH team which helps the IDH team better understand how states are utilizing the IDH.

- In October 2021, the UI Integrity Center launched the Behavioral Insights (BI) toolkit which brings together practices from the field of behavioral science to promote UI integrity and reduce UI improper payments. The BI Toolkit offers a collection of resources to help UI agencies improve integrity and customer compliance through targeted changes to program communications and processes. The BI toolkit includes a sub-collection of resources, articles, templates, and how-to information housed within the online Knowledge Exchange Library. On November 17, 2021, ETA issued Training and Employment Notice No. 15-21, announcing the availability of the BI toolkit.

- Conducted 10 webinars for states on fraud prevention and detection strategies, including webinars on UI identity fraud, internal security, fictitious employers, identity verification, overpayment recoveries, and IDH results management and prioritization.

- Presented to states on fraud prevention, detection, and overpayment recovery strategies and effective integrity tools during multiple events in Calendar Year 2021 and 2022, including the 2022 National Association of State Workforce Agencies' (NASWA) UI Interstate Benefits (IB) and Federal Programs Training Conference, the State Information Data Exchange (SIDES) Seminar, and the 2021 NASWA Summit.

- Convened monthly regional integrity workgroups with state UI integrity management and field staff to provide states an opportunity to share and discuss specific integrity strategies and share promising practices, recent fraud activities and countermeasures, and innovative operational enhancements on integrity topics with the broader UI community.

Attachment II

- Continued adding to the UI collection in the Knowledge Exchange Library (Library), which is an online, searchable, knowledge-sharing platform that includes a repository of all UI Integrity Center resources including, model state operational processes, promising state practices, and recommendations to strengthen UI program integrity. The Library currently contains over 2,600 UI integrity-related resources.

- The UI National Integrity Training Academy (Academy) continues to develop and provide rigorous and relevant training programs and materials to states, offering program integrity training for state UI staff via online, eLearning modules and virtual instructor-led trainings that lead to credentials and certification. Current all-time enrollments in Academy trainings are up to 13,690 learners, which represent all 53 states.

Attachment III

Employment and Training Administration (ETA) Activities in Partnership with the Office of Inspector General (OIG) (Since February 2021)

- On May 12, 2021, ETA coordinated a call with states and the OIG to provide updates on OIG activities and to encourage states to partner with the OIG to combat fraud.

- On August 3, 2021, ETA issued Unemployment Insurance Program Letter (UIPL) No. 04-17, Change 1, which outlined requirements for states to refer allegations of Unemployment Compensation (UC) fraud, waste, abuse, mismanagement, or misconduct to the OIG and to disclose information related to the Coronavirus Aid, Relief, and Economic Security (CARES) Act to the OIG for purposes of UC fraud investigation and audits. ETA also reminded states of their requirements to share information requested by the OIG for both audits and investigations for the period of performance of the grants that otherwise would not be required of states.

- On August 11, 2021, ETA issued UIPL No. 22-21, announcing the availability for fraud prevention grant funding and conditioned the award of the grant on states agreeing to information disclosure with the OIG.

- ETA updated the Unemployment Insurance (UI) Integrity Center's cooperative agreement to include Integrity Data Hub (IDH) data sharing with the OIG. ETA and the UI Integrity Center are actively engaged in a substantial data extract project to share IDH data with the OIG and have completed several actions to advance this effort. A new IDH Participation Agreement was developed, to include a provision for sharing state IDH information with the OIG. ETA announced Version 5.0 of the IDH Participation Agreement in Training and Employment Notice No. 24-21 on May 5, 2022. In addition, the UI Integrity Center provided an estimated timeline and budget to ETA for the OIG IDH Data Extract project on April 15, 2022.

- ETA worked with the OIG to develop and refine a process for states to submit fraudulent Facebook pages directly to Facebook to facilitate the quick removal of the fake social media pages.

- ETA engaged with the OIG and other Federal agencies on a workgroup to identify strategies to mitigate text message phishing schemes. As part of this effort, ETA's Regional Offices obtained information for the workgroup about the scope of the fraudulent text messaging issue by asking states to provide examples/screenshots of known text messaging schemes. ETA's Regional Offices also gathered information from states on their current text messaging practices to inform public outreach regarding fraudulent text messaging.

- ETA disseminates National Unemployment Insurance Fraud Task Force (NUIFTF) alerts to its Regional Offices and states.

Attachment III

- ETA held a national "meet and greet" meeting between ETA's Regional Offices and the OIG's Regional Offices on December 6, 2021, to strengthen the Regional Office relationships and to begin developing reoccurring joint ETA/OIG Regional Office calls with states to share fraud trends and analysis, provide recommendations for responding to emerging fraud schemes, offer updates on prosecution efforts, and facilitate sharing of UI fraud and integrity-related challenges and best practices among states. ETA's Regional Offices began hosting the joint quarterly conference calls with the OIG and the states in the first quarter of Calendar Year 2022 and continue to hold calls each quarter.

- On August 25, 2022, ETA and the OIG presented to over 1,200 UI adjudicators during the closing plenary on the adjunction training conference. ETA presented on national UI integrity efforts and the OIG presented on their case work in the UI fraud space. The presentations outlined the need for ETA, state UI agencies, and the OIG to work together to prevent, detect, and recover UI fraud through enhanced collaboration and data sharing.

Attachment IV

Overpayment Recovery Efforts

- Ongoing participation on banking workgroup calls to discuss ongoing recovery efforts and improve communication between banking organizations, federal government agencies, and law enforcement agencies.

- ETA issued Unemployment Insurance Program Letter (UIPL) No. 19-21 on May 4, 2021, providing guidance to states on the proportional distribution methodology for recovering federally funded Unemployment Compensation (UC) benefits, which are held by banks and financial institutions as a result of suspicious and/or potentially fraudulent activity.

- Required states to include recovery strategies, such as working directly with financial institutions and/or law enforcement agencies to recover UC funds held by banks and financial institutions, in their Integrity Action Plans as part of the annual State Quality Service Plan process.

- At the request of the Department of Justice (DOJ), the Office of Inspector General (OIG) developed a form for states to complete to compile a list of state contacts for forfeiture/seizure efforts and gather insight into state practices in this area. The Employment and Training Administration (ETA) facilitated states responses to this request and provided the responses to DOJ and the OIG.

- On June 11, 2021, ETA coordinated a call between state Unemployment Insurance (UI) agencies, the OIG, and DOJ to provide states with information on law enforcement's forfeiture and seizure efforts.

- On July 13, 2021, ETA coordinated a call with state UI agencies and the National Automated Clearing House Association (Nacha) to discuss the ACH network, the Nacha opt-in changes, and to educate states on banking rules and opportunities for engagement with the state's Originating Depository Financial Institution.

- ETA has connected numerous states with banks attempting to return overpaid UC benefits. ETA continues to coordinate with states and banking partners to address overpayment recovery questions and concerns.

APPENDIX C: ACKNOWLEDGMENTS

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Chairman SMITH. Thank you, Representative, and I also appreciate your attendance at both of our hearings this week, the first, and today being the second.

Mr. FERGUSON. It was an honor and a pleasure, sir.

Chairman SMITH. Thank you. I would love to recognize the gentleman from New York, Mr. Higgins.

Mr. HIGGINS. Thank you, Mr. Chairman.

So, $5 trillion in pandemic relief was approved under two programs that included expanded unemployment and the Paycheck Protection Program. Both of these programs were signed into law by both Republican and Democratic Administrations.

So, Mr. Dodaro, you have been an employee of the Government Accountability Office for almost 50 years.

Mr. DODARO. Yes.

Mr. HIGGINS. And you have been comptroller general for 13 years?

Mr. DODARO. I am working on that.

Mr. HIGGINS. Acting two years before that.

Mr. DODARO. That is correct.

Mr. HIGGINS. Okay.

Mr. DODARO. Next month it will be 15 years since I have been in the job.

Mr. HIGGINS. And as the Comptroller General of the United States and head of the U.S. Government Accountability Office, it is a $5 trillion bureaucracy. Where is your focus, primarily, as head of that agency?

Mr. DODARO. Yes, we focus on the entire full breadth of the Federal Government's responsibilities, you know, everything from IRS to the Defense Department, all the agencies.

Now, we work closely with the inspector general community to make sure that we are coordinating and making efficient use of our resources.

Mr. HIGGINS. How much time over the past 36 months, on a percentage basis, has been spent on waste, fraud, and abuse under those two programs, Paycheck Protection and expanded unemployment?

Mr. DODARO. We have issued at least 10 reports on those individual areas. We spent a lot of time on the Paycheck Protection Program, the Economic Injury Disaster Loan program, both at SBA. We have added that to our high-risk list that I mentioned earlier, as well as the unemployment insurance——

Mr. HIGGINS. So, I presume, in your 50 years, you have never seen anything of this magnitude as it relates to your office's responsibility to promote the integrity in the expenditures of those dollars.

Mr. DODARO. This has been the largest package in American history, the rescue package, in American history.

I became acting comptroller general during the global financial crisis, so I was around for the $700 billion to unfreeze the credit markets, the American Recovery and Reinvestment Act before that Hurricane Katrina. This has been the largest one, ever.

Mr. HIGGINS. Okay. The unemployment insurance program—so 2020 it was $174 billion, 2021 was $115 billion, and 2022 was $24 billion. How bad was the fraud and abuse relative to the benefit?

I mean, can you formulate a cost benefit analysis in your own head about, you know, a lot of money went out, certainly fraud is something that neither party is supportive of, and is very intent on eliminating to the extent that it is possible, so——

Mr. DODARO. Yes. The way I look at it, from an oversight standpoint, is that there was great benefit to all these programs, but there could have been even greater benefit had we stopped the improper payment and fraud area, particularly in the loan programs, because there is only a certain amount of money.

Mr. HIGGINS. Yes.

Mr. DODARO. So other people were denied the loans, they were denied assistance.

Mr. HIGGINS. Right.

Mr. DODARO. In the unemployment area, everybody that was legitimately there got paid—not everybody on a timely basis.

Mr. HIGGINS. Right.

Mr. DODARO. But—so that is the way I look at it.

Mr. HIGGINS. So nearly 50 years of service.

You know, the greatest way to reduce unemployment expenditures at the Federal and state level would be a reduction in the Federal unemployment rate, which is today 3.4 percent, which is the lowest rate since 1969. That is 54 years. It is pretty incredible.

But you also spoke at the outset of the infrastructure that exists or does not exist at the state level. It seems as though the Federal Government needed to do something quickly. We were all in an emergency mode, not a lot of time to structure a program, including the infrastructure that was necessary to administer that program in an efficient way, reducing to the fullest extent possible fraud and abuse.

So, is it fair to say that the majority of the responsibility for the fraud and abuse is associated with the antiquated systems throughout the various states that we forced to administer this program?

Mr. DODARO. The antiquated systems were certainly a big part of the problem. But, as my colleague, Mr. Turner, noted, states had been on notice for years about that program. I know New York State, the deputy comptroller said that they had been on notice since 2010.

Mr. HIGGINS. Right, but—I get that. But——

Mr. DODARO. Yes.

Mr. HIGGINS. They were on notice to do something about their antiquated systems. This is like, you know, responsibility on steroids. The unemployment rate reached nearly 14 percent.

Mr. DODARO. No, I understand. The states were overwhelmed. That was for sure.

But I think it goes to the incentive question. You know, in normal times this is state money that is collected from taxes put on employers in that state. And they knew that there was fraud. They knew there were improper payments. So, in my opinion, looking back on this from an oversight standpoint, they bear some responsibility for not being better prepared.

Now, whether they would have been prepared to deal with the overwhelming issue brought by the pandemic is an open question.

Mr. HIGGINS. I yield back. Thank you.

Chairman SMITH. Thank you, Representative. I recognize the gentleman from Ohio, Mr. Wenstrup.

Mr. WENSTRUP. Thank you, Mr. Chairman, and I want to thank you all for being here today. I appreciate your time. I am glad we are having this hearing to examine, really, the unprecedented levels of fraud in the pandemic unemployment programs.

You know, I often think about our job here, and in situations like this I think of the song, America the Beautiful, where we are—we ask God to help us mend our every flaw. And I think this is a perfect example of us trying to do that.

Mr. Turner, thank you for clarifying today, too, the difference between improper payments and fraud itself. And $191 billion, I believe, is what is reported out from DoL.

You know, in my home state of Ohio, it is estimated $1 billion may have been paid in fraudulent unemployment claims from March 2020 to June 2022. And the problem is so rampant that our own governor, Mike DeWine, and his wife Fran, and our lieutenant governor, John Husted, were notified that fraudulent claims had been filed in their own names. It went that far. So, it is a widespread problem. It harms Americans that it was designed to help. And obviously, we don't want that. That is a given.

So many of my Republican colleagues have been committed to protecting Americans who have been victims of this fraud. In fact, when this committee was in markup for the American Rescue Plan, I offered an amendment to require the IRS to implement a hold harmless process for those taxpayers whose 1099Gs are flagged as unreported income, if those taxpayers believe they are victims of identity theft or fraud, such that no penalties or interest would accrue against them.

This amendment was objected to by my colleagues on the other side of the aisle. At that time Ranking Member Neal promised that, if I withdraw my amendment, we would work together to address this issue. Unfortunately, it hadn't ever happened.

And, Mr. Chairman, with your consent, I would like to submit a copy of my amendment on that for the record.

Mr. KELLY [presiding]. Without objection.

[The information follows:]

Amendment to the Amendment in the Nature of a Substitute to Subtitle A. Budget Reconciliation Legislative Recommendations Relating to Crisis Support for Unemployed Workers offered by Mr. Wenstrup of Ohio

The amendment would provide relief by holding harmless taxpayers that had their identities stolen and were victims of unemployment fraud

AMENDMENT TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. WENSTRUP OF OHIO

Add at the end the following:

SEC. 9033. RELIEF FOR TAXPAYERS THAT WERE VICTIMS OF IDENTITY THEFT TO COMMIT UNEMPLOYMENT INSURANCE FRAUD.

In collaboration with the Department of Labor, and applicable to tax year 2020, the Commissioner of Internal Revenue shall—

(1) extend the deadline by which States are required to submit Forms 1099-G by 30 days;

(2) implement a process to hold harmless taxpayers who are flagged for unreported income if those taxpayers believe they are victims of identity theft, or that fraudulent unemployment benefits were claimed in their name, such that no penalties or interest shall accrue against them; and

(3) require States to report the amount of fraudulent unemployment benefits that are excluded as income from Form 1099-G's issued by the State due to suspected or confirmed fraud.

☒

Mr. WENSTRUP. And so, I will say that, despite not really investigating the root cause of the frauds during the pandemic, we saw the Department of Labor has distributed $2 billion in the American Rescue Plan to detect and prevent fraud, promote equitable access, and ensure the timely payment of benefits with respect to unemployment compensation programs. The Department of Labor has yet to provide a full accounting of how this funding has been used.

I think we need to circle our wagons there, and the only available information that I have seen shows DoL has only used 18 percent of those funds for fraud identification and recovery. So, Mr. Turner, do you have any data currently on how many taxpayers had their identity stolen to claim IU [sic] benefits fraudulently?

Is there any tracking the IRS does to aggregate information from the Form 1099G about the amount of taxable unemployment benefits that were flagged by states or individuals as fraudulent?

I think it is an important piece of the puzzle, so if you could help me there I would appreciate it.

Mr. TURNER. Yes, we are—this is still early in the stage. We are still gathering the data on that.

Mr. WENSTRUP. Okay.

Mr. TURNER. But it is part of our plan. We hoped to do that this year, but because of constraints we have pushed it off to next year. But we do have plans to do so.

Mr. WENSTRUP. I appreciate that. As soon as we can, that would be helpful information for us.

The State of Ohio has been able to recover more than $390 million in unemployment benefits. And despite the work being done by the Ohio Department of Job and Family Services, and our participation in the National Association of State Workforce Agencies, Ohio is not receiving any portion of the funding they have recovered, the majority of which are pandemic unemployment assistance and Federal pandemic unemployment compensation funds.

So, they are really trying to do their work. You know, states like Ohio are making investments in fraud recovery and prevention efforts as they continue to recover these fraudulent payments. I think we should be working to incentivize their investments in these recovery efforts.

Mr. Turner, what thoughts do you have on policy recommendations that would incentivize states to pursue the fund recovery work?

And you may have mentioned this earlier, and I apologize if I am asking a question again.

Mr. TURNER. Not a problem. That is one of the recommendations that the Department of Labor have. And we concur with that recommendation. We think anything that would incentivize and help people more—be more interested in recovering those funds is a great move.

Mr. WENSTRUP. What would you suggest that incentive look like?

Mr. TURNER. Well, five percent, I think, is what they are proposing.

Mr. WENSTRUP. Okay.

Mr. TURNER. And we would agree with that. The only caveat that we would add on that is that it be returned back to the UI program, the administration of it.

Mr. WENSTRUP. Okay, thank you.

Mr. Chairman, with your consent I would like to submit a letter from Ohio Governor DeWine to the Secretary of Labor, Martin Walsh, for the record.

Chairman SMITH [presiding]. With no objection.

MIKE DEWINE
GOVERNOR OF OHIO

Administration
Office 614.644.4357

77 S. High St., 30th Floor
Columbus, OH 43215
www.governor.ohio.gov

Hon. Joseph R. Biden, Jr.
President of the United States
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

March 10, 2021

Dear Mr. President,

The global pandemic and subsequent economic turmoil have put the nation's unemployment systems to the test in distributing benefits to Americans whose work has been impacted by COVID-19 crisis. As with any sizable effort such as this, the idea of access to quick cash has invited rampant fraud attempts across the nation. It is notable that at least in Ohio, the number of successful attempts at fraud being committed against our *traditional* unemployment system is dwarfed by the amount of fraud being discovered within the federal Pandemic Unemployment Assistance (PUA) program. Our established state systems have been much more successful at preventing fraud.

PUA was designed by Congress and the U.S. Department of Labor and handed off to the states for administration of the benefits. Ohio, like most states, had no system in place for administering this program and had to build it from scratch in alignment with the new federal guidelines. In designing the system, the federal government opted for looser requirements in favor of rapidly distributing funds, and while that decision is understandable, it compounded the fraud issue.

With the benefit of several months of experience, we've now learned that in making it easy for people to apply for and receive benefits, the federal rules also made it easy for criminals to steal citizens' information off the dark web and use it to scam the system. Based on our understanding, this criminal enterprise is commonly being run out of Russia, China, and Nigeria.

Those attempting to commit fraud and committing fraud are sophisticated enough to move from state to state and continue to exploit this program. When one state implements a useful strategy to prevent fraud, the criminals simply move on to another state to commit their crime.

Nationally, billions of federal taxpayer dollars have already been lost through unemployment compensation fraud, and we must stop the bleeding.

Because fraud is now rampant in the new PUA federal unemployment program, the process for paying legitimate claims to Americans in need has had to slow as states work to separate legitimate claims from illegitimate ones. Hard working families with very serious, very urgent

needs have paid a price for this fraud, beyond the cost to the public treasury, through unacceptably long claim delays.

We urge you to immediately develop a national, coordinated response to this ongoing attempt to defraud the American people and our national and state governments. While states are doing everything they can to administer the federal programs while maintaining system integrity, a state-by-state response is proving inadequate. This is not an Ohio problem – it's a national problem that requires a national solution.

Sincerely,

Mike DeWine
Governor of Ohio

Jon Husted
Lt. Governor of Ohio

MR. PRESIDENT —
THANKS FOR ALL THE
HELP WITH THE VACCINE.
WE ENJOY WORKING WITH
YOUR TEAM! — MY BEST —

CC: Marty Walsh, Nominee for U.S. Secretary of Labor

Mr. WENSTRUP. Thank you. I yield back.

Chairman SMITH. Thank you, Representative. I would like to recognize the gentlelady from the State of Alabama, Ms. Sewell.

Ms. SEWELL. Thank you, Mr. Chairman.

To be clear, none of us want waste, fraud and abuse in any government program. We all were sent here to be good stewards of taxpayers' money.

I also want to just say that the facts are that we dealt with a once-in-a-generation pandemic, and that there were lots of Americans, vulnerable Americans, who were left more vulnerable because of this pandemic. In my state of Alabama alone, 532,000 Alabamians were spared from economic disaster because of the work done by this committee and the House of Representatives in the early months of COVID–19.

The American Rescue Plan provided many states' unemployment offices the necessary resources to ensure that funds got out the door in a timely fashion to those facing the most dire economic and health scenarios imaginable at no fault of their own.

I will never forget the sight, the sight of family after family lining up in cars to local charities and to churches and to pantries to have food loaded into their cars. And do you know why I will never forget it? Because I was bagging and loading lots of those groceries each and every time I was at home. These people were people who, two weeks ago, earlier, when the pandemic started, had jobs and no fear of losing the roof over their heads. And then, all of a sudden, they had friends and neighbors turning to them, offering them assistance to just get by.

I didn't want my families to just get by. I wanted them to get back on their feet. The actions taken by the Ways and Means Committee in a matter of weeks ensured that millions of my constituents not only got by, but were able to pay their mortgage, make their mortgage payments, as well as to fill their kitchen cabinets.

While facing a crisis like this none of us have experienced, we do know that fraud did occur. But as all of you have said over the course of the last few hours, this was not something that was just sprung upon us.

As you said, Mr. Dodaro, as comptroller, you understand that we—that the states were not prepared. You said that. And I can tell you, from firsthand experience in the state that I represent, Alabama was not prepared.

But because we gave them resources in the CARES Act and the American Rescue Plan, they got prepared. And as they got prepared, it took time. They were, you know, learning how to ride the bicycle as the bicycle was going down the road, and there were problems with it.

But I also know that, Mr. Chairman, it is not fair to talk about the system without actually having on this panel workers who worked in these state agencies to be able to talk in earnest about what went on in those state agencies.

I also note that we did give money. We gave money back when this pandemic first got started. And the Trump Administration did not put together an anti-fraud program that would help prevent this.

Now, I know that fraud will happen in any program, but I guess my question to you is what can we do to make sure that states are more prepared, and actually assist in finding those fraudsters that are out there?

I know that so many of the folks that work in these departments of labor in the states are good, earnest people who are trying to do their job. They just need more resources, more people in order to do that, and better systems. So, what can we do, as a prophylactic measure, to really help address the lack of preparedness in state agencies?

Mr. DODARO. The first thing I would suggest is that—I mentioned earlier the Fraud Reduction and Data Analytics Act that Congress passed in 2016. That only applies to Federal agencies, it doesn't apply to the state agencies. So I think, if you would apply it to the state agencies and encourage and incentivize them to implement a comprehensive anti-fraud strategy on a continual basis, which would be effective throughout the whole period of time, that would be the number-one thing.

The number-two thing is, if in future emergencies there are measures, if they have that in place, there should be not as much of a need or a need at all for Congress to allow self-certifications. That, I think, helped tie the hands of the states a bit, because they weren't allowed to ask for documentation and support.

So those two things would allow them to be prepared—manage the normal program much better, and be prepared for emergencies.

Ms. SEWELL. Mr. Chairman, I would suggest that we really should have had state administrators on this panel, as well as workers who worked in this area, that that would have given us a more broader view about what we can all do to help prevent fraud in the future.

Thank you, and I yield back.

Chairman SMITH. I thank the representative. Like I said earlier, this is just the first of many oversight hearings. The reason why we are doing it this way is because we didn't have any in the prior two congresses, and so we are glad that we are at least starting.

I would love to recognize the gentleman from the State of Illinois, Mr. LaHood.

Mr. LAHOOD. Thank you, Mr. Chairman. I want to thank the witnesses for your valuable testimony and service here today. Mr. Chairman, I want to thank you for holding this hearing and making this a top priority for our new majority. It is so vital that we do this.

And I want to—I know it has been referenced, but it has been frustrating that this is the first hearing we are having on this. As everybody knows, COVID began, you know, in the spring of 2020. And obviously, we have been concerned about fraud in this space for the last two years. But this is the first hearing we are having. And it is not for a lack of trying.

I just want to reference two letters that at the time our Republican leader, Mr. Brady, sent to this committee asking for a hearing. March 12th, 2021, we write to the chairman requesting an immediate—schedule an oversight hearing on the Ways and Means Committee to investigate reports and—of reports of fraud in unem-

ployment insurance programs enacted through COVID pandemic. No response to that at all.

So, with no response, we sent another letter 10 months later, February 22nd, 2020, again, at the time, to the chairperson from Ranking Member Brady—Ms. Walorski and Tom Rice and Mr. Kelly—again, asking to investigate the size, scope, and severity of criminal fraud in pandemic unemployment insurance. No response, unfortunately.

I would like to submit both these—both of these letters for the record, Mr. Chairman.

Chairman SMITH. Without objection.

[The information follows:]

COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515

March 12, 2021

The Honorable Richard Neal
Chairman, Committee on Ways and Means
1102 Longworth House Office U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Neal:

We write to request that you immediately schedule an oversight hearing before the House Ways and Means Committee to investigate reports and revelations of fraud in unemployment insurance programs enacted in response to the COVID-19 pandemic.

As of February 27, 2021, federal spending on enhanced unemployment benefits authorized under the Families First Coronavirus Relief Act, the Coronavirus Aid, Relief, and Economic Security (CARES) Act, and Consolidated Appropriations Act exceeded $465 billion, in a period of less than a year.[1] This includes funding for Pandemic Unemployment Assistance, Emergency Relief for government entities and non-profits, Federal Pandemic Unemployment Compensation, Pandemic Emergency Unemployment Compensation, full funding for the first week of regular compensation, and 100% federal funding for Extended Benefits.

The Labor Department's Inspector General and the Government Accountability Office have both issued repeated warnings about the vulnerability for abuse of CARES Act unemployment insurance programs.[2][3] The Inspector General's initial audit and investigation indicate improper payments could be at least $63 billion, with a significant portion attributable to fraud.[4] The Secret Service circulated a memo to its field offices last May saying an international crime ring has been filing unemployment claims in different states using Social Security Numbers belonging to identity theft victims, including first responders, government personnel and school employees.[5] Last month, California state workforce officials confirmed that they paid out fraudulent unemployment claims totaling over $11 billion and identified another $20 billion in claims still under investigation.[6] And most recently, the Department of Justice issued a warning

[1] U.S. Department of Labor: https://oui.doleta.gov/unemploy/docs/cares_act_funding_state.html
[2] U.S. Department of Labor, "DOL-OIG Oversight of the Unemployment Insurance program," February 3, 2021; "Alert Memorandum: The Employment and Training Administration (ETA) Needs to Ensure State Workforce Agencies (SWA) Implement Effective Unemployment Insurance Program Fraud Controls for High Risk Areas," February 22, 2021.
[3] "COVID-19: Critical Vaccine Distribution, Supply Chain, Program Integrity, and other Challenges Require Focused Federal Attention," Government Accountability Office, January 28, 2021. (GAO-21-265)
[4] U.S. Department of Labor, Office of Inspector General: https://www.oig.dol.gov/doloiguioversightwork.htm
[5] "Massive Fraud Against Unemployment Insurance Programs, U.S. Secret Service, May 5, 2020, Alert: https://www.documentcloud.org/documents/6891584-GIOC-Alert-20-027-I-State-Unemployment-Fraud-002.html
[6] "McCarthy, Steel, and CA Republicans Condemn Newsome Administration for Mismanagement of $11.4 B in Taxpayer Funds," February 5, 2021.

that fraudsters are creating websites to mimic unemployment benefit websites to capture consumer's personal information.[7]

Generous unemployment benefits, including the additional $600, and now $300/week, are an easy target for criminals using stolen identities. We are concerned that Democrats partisan COVID reconciliation package would extend these unemployment benefits through August with no additional protections against vulnerabilities, and without having held a single hearing to determine how to prevent further fraud from occurring.

In addition, this unchecked unemployment fraud has created an added burden that will place undue stress on thousands of taxpayers when they can least afford it. A crisis is looming as tax filing season swings into full gear, millions of taxpayers have begun receiving forms indicating the amount of unemployment benefits they received in 2020. For many, this may be the first time they discover the state has issued unemployment benefits fraudulently claimed in their name. The Ohio Attorney General first alerted Congress to this issue saying they project roughly 1.7 million 1099-G tax forms will be mailed to Ohioans.[8] Ohio suspects tens of thousands of those claims were filed fraudulently using stolen identities. In response, several Committee Republicans sent a letter to the Biden Administration to take action to protect taxpayers who were victims of unemployment fraud.[9]

During, the Committee's COVID reconciliation mark-up Committee Republicans offered an amendment to extend the deadline for states to submit these forms (1099-G) to the IRS – so they have more time to work with taxpayers to correct the forms. Upon your request and promise to work with Republicans on the Committee to look into this issue, the amendment was withdrawn.

Given that commitment, Republicans continue to strongly believe this Committee has a responsibility to investigate and hold oversight hearings to determine the extent and amount of fraud in CARES Act unemployment insurance programs, including preventing further abuse and recovery of taxpayer dollars.

We look forward to your prompt response.

Sincerely,

Kevin Brady
Ranking Member
Committee on Ways and Means

Jackie Walorski
Committee on Ways and Means

Mike Kelly
Committee on Ways and Means

[7] U.S. Department of Justice, "Justice Department Warns About Fake Unemployment Benefit Websites," March 4, 2021.
[8] "AG Yost Asks Congress for Safe Harbor while Ohio Investigates Unemployment Fraud," January 22, 2021.
[9] "Wenstrup Leads Letter to Administration Asking for Relief for Taxpayers that Were Victims of Unemployment Fraud," February 8, 2021, Ways and Means Republicans.

COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515

February 22, 2022

Delivered via E-mail

The Honorable Richard Neal
Chairman, Committee on Ways and Means
1102 Longworth House Office U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Neal:

We write to request that you immediately schedule an oversight hearing before the House Ways and Means Committee to investigate the size, scope, and severity of criminal fraud in pandemic unemployment insurance (UI) programs enacted in response to COVID-19.

Despite repeated calls for oversight hearings, including a letter we sent you on March 15, 2021, which received no response, Democrats continue to turn a blind eye to what is possibly the greatest theft of taxpayer dollars in American history, allowing cybercriminals and international crime rings to rob the American people and divert funds from unemployed workers.

The White House recently estimated an astounding 19 percent improper payment rate in the Federal-State UI program equating to nearly $80 billion in lost funds in fiscal year 2021 alone. This partial estimate does not include the period of greatest fraudulent activity when generous federal supplements made unemployment a lucrative target for fraudsters.

Yet, Congressional Democrats have failed to hold even a single oversight hearing on unemployment fraud.

Republicans strongly believe this Committee has a responsibility to hold oversight hearings to determine the extent and amount of fraud in CARES Act unemployment insurance programs, including preventing further abuse and recovery of taxpayer dollars.

In the absence of action from Democrats, today Committee Republicans are holding our second roundtable on pandemic unemployment fraud to hear from federal agencies investigating the size, scope, and severity of unemployment fraud, including ongoing efforts to prosecute and recover stolen funds. Our roundtable will include testimony from the Government Accountability Office, Pandemic Response Accountability Committee, and the U.S. Secret Service.

As of February 12, 2022, federal spending on enhanced unemployment benefits authorized under the Families First Coronavirus Relief Act, the Coronavirus Aid, Relief, and Economic Security (CARES) Act, and Consolidated Appropriations Act exceeded $850 billion, in a period of less than two years.[1] This includes funding for Pandemic Unemployment Assistance, Emergency Relief for government entities and non-profits, Federal Pandemic Unemployment Compensation, Pandemic Emergency Unemployment Compensation, full funding for the first week of regular compensation, and 100% federal funding for Extended Benefits.

It is well documented that throughout the pandemic, criminal organizations, including international cybercrime rings and opportunistic foreign actors, used stolen identities to falsely claim unemployment benefits. Fraud delayed legitimate payments to unemployed workers and turned thousands of Americans into unwitting identity theft victims who are now on the hook for taxes and unable to reach a backlogged IRS.

Since the summer of 2020, repeated alerts from federal law enforcement agencies warned of targeted efforts to obtain fraudulent unemployment benefits:

- The Labor Department's Inspector General and the Government Accountability Office have both issued repeated warnings about the vulnerability for abuse of CARES Act unemployment insurance programs.[2][3]
- The Labor Department's Inspector General's initial audit and investigation indicate improper payments could be at least $87 billion, with a significant portion attributable to fraud.[4]
- The Secret Service circulated a memo to its field offices last May saying an international crime ring has been filing unemployment claims in different states using Social Security Numbers belonging to identity theft victims, including first responders, government personnel and school employees.[5]
- California state workforce officials confirmed that they paid out fraudulent unemployment claims totaling over $11 billion and identified another $20 billion in claims still under investigation.[6]
- Department of Justice issued a warning that fraudsters are creating websites to mimic unemployment benefit websites to capture consumer's personal information.[7]

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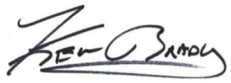
[1] U.S. Department of Labor: https://oui.doleta.gov/unemploy/docs/cares_act_funding_state.html
[2] U.S. Department of Labor, "DOL-OIG Oversight of the Unemployment Insurance program," February 3, 2021; "Alert Memorandum: The Employment and Training Administration (ETA) Needs to Ensure State Workforce Agencies (SWA) Implement Effective Unemployment Insurance Program Fraud Controls for High Risk Areas," February 22, 2021.
[3] "COVID-19: Critical Vaccine Distribution, Supply Chain, Program Integrity, and other Challenges Require Focused Federal Attention," Government Accountability Office, January 28, 2021. (GAO-21-265)
[4] U.S. Department of Labor, Office of Inspector General: https://www.oig.dol.gov/doloiguioversightwork.htm
[5] "Massive Fraud Against Unemployment Insurance Programs, U.S. Secret Service, May 5, 2020, Alert: https://www.documentcloud.org/documents/6891584-GIOC-Alert-20-027-I-State-Unemployment-Fraud-002.html
[6] "McCarthy, Steel, and CA Republicans Condemn Newsome Administration for Mismanagement of $11.4 B in Taxpayer Funds," February 5, 2021.
[7] Department of Justice, "Justice Department Warns About Fake Unemployment Benefit Websites," March 4, 2021.

Now, the Biden Administration has taken unilateral action to sweep suspected fraud under the rug, releasing new guidance allowing states to waive large numbers of suspicious claims and forgo restitution for taxpayers. Recent guidance issued by the Department of Labor allows states to apply blanket waivers to forgo recovery of overpayments using seven different loopholes, including failure to provide documentation of eligibility. Allowing use of blanket waivers lets states off the hook for due diligence and fact finding for large volumes of suspicious unemployment claims potentially involving billions of fraudulently obtained taxpayer dollars.

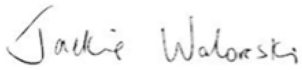
In the absence of leadership from the majority, we will continue to highlight and investigate pandemic unemployment fraud to provide the transparency and government accountability that American taxpayers deserve.

We look forward to your prompt response.

Sincerely,



Rep. Kevin Brady
Ranking Member



Rep. Jackie Walorski
Ranking Member, Subcommittee on Worker and Family Support



Rep. Tom Rice
Ranking Member, Subcommittee on Oversight

Cc: Rep. Danny Davis, Chair, Subcommittee on Worker and Family Support
Rep. Bill Pascrell, Chair, Subcommittee on Oversight

Mr. LAHOOD. Couple that with what Dr. Wenstrup just said, we offered an amendment to get to the bottom of this on unemployment insurance. Nothing.

So here we are today, having this hearing today. And so, again, vitally important that we use our responsibility with oversight to have some accountability in this program.

Mr. Horowitz, I wanted to ask you a couple of questions here. As we have heard here today, the more time passes, the harder it is to get these dollars back. And so, it is high time that someone start asking questions and look into how do we claw back billions of dollars.

My question specifically for you: obviously, you are working in your capacity across all of government, uncovering these fraud schemes and getting real results in terms of suggestions for criminal prosecutions and, hopefully, convictions and some jail sentences for those involved, which will hopefully send a deterrent message.

A bit of a hypothetical question, but if you had $2 billion today, how would you use those funds to ramp up efforts to recover the funds and hold wrongdoers accountable?

Mr. HOROWITZ. Well, first off, that would be magnitudes greater than we have gotten in the past for any of the IGs. And—but what we would do is a couple of things: increase our agents, the number of law enforcement and other auditors and analytics capacity that we have, so we can find the fraud, pursue the fraud; I would actually also then provide analysts to the various task forces like we are doing already—the National Pandemic Unemployment Insurance Task Force—so that we can be a force multiplier in that regard; and then finally, very importantly, there is going to need to be more prosecutors, both at the Federal level and at the local level, to deal with these cases. We can investigate them, but we have got to hand them off to somebody who will actually go to a courtroom and pursue the prosecutions.

Mr. LAHOOD. And is there an example of a state that has been very proactive in terms of hiring state prosecutors to do that?

Mr. HOROWITZ. There have been a number of states, and I wouldn't want to leave one out. We are working with a lot of states. We have had great relationships with a variety of states who are dealing with these issues.

It is just going to grow, though, exponentially as we uncover more and more fraud, and as the Labor IG, you know, finds more and more fraud, and as we find the overseas fraud, right? That is the hardest to find, and is going to take us the most amount of time to get to.

Mr. LAHOOD. In your testimony, Mr. Horowitz, you provided a recommendation that Congress should amend the Program Fraud Civil Remedies Act——

Mr. HOROWITZ. Correct.

Mr. LAHOOD [continuing]. To raise the jurisdictional limit for administrative recoveries of smaller claims.

Mr. HOROWITZ. Right.

Mr. LAHOOD. What is the threshold we are using now, and how does it compare to the amounts we are talking about in fraud from UI programs?

Mr. HOROWITZ. So, the threshold right now is $150,000. It provides the Program Fraud Civil Remedies Act that we can use the civil process in it through administrative means, which means we don't have to tie up the Federal courts or Federal prosecutors for lower-dollar fraud claims. We want to increase that to $1 million, because we have seen the extraordinary number of payments that went out that were below that million-dollar amount.

And the reality is that, given the limitations on resources at the U.S. attorneys' offices and for prosecutors around the country at the state and local level, we are going to have challenges getting them to take smaller fraud cases. We, at a minimum, want to be able to use the civil processes to collect the money back for the taxpayers. And so that is why that is so crucial.

We have had, by the way, bipartisan support for it. It just hasn't made its way through Congress.

Mr. LAHOOD. Great, thank you. I yield back.

Chairman SMITH. I want to thank the gentleman, and recognize the gentlelady from Washington State, DelBene.

Ms. DELBENE. Thank you, Mr. Chairman. I would like to thank the witnesses for being here today and for sharing your testimony with the committee.

However, an important voice is missing from this conversation, and that is the voice of the millions of people and the families for whom the expanded unemployment insurance during the pandemic was a lifeline.

I we think back to 2020, and the fear and the uncertainty that our country was facing as that first case of COVID was reported in my district in the State of Washington, we saw many workers laid off, no longer receiving a paycheck. Some had to find childcare quickly, because their kids were taking classes at home. Small business owners were wondering how they could keep their businesses afloat.

Overnight, our world shut down. Our nation lost nearly 22 million jobs at the outset of the pandemic. And Congress needed to act. And we needed to act quickly to ensure that families kept food on their tables and roofs over their heads. And that is exactly what we did.

To address the dramatic level of job loss and hardship caused by the pandemic, Congress passed bipartisan legislation which temporarily increased state unemployment insurance benefits by $600 a week, and this ensured that families had the money they needed to stay afloat. We also created temporary benefits to self-employed workers who were not covered by state UI programs to ensure that these people were not left without support. These changes and increased funds had a real impact for the families and the workers in our communities.

I wanted to share the story of a Washington family. Lori, who works for an education non-profit, and her husband work for music venues. Her husband was undergoing cancer treatment, and their family was already living paycheck to paycheck. When the pandemic hit, Lori's husband was laid off due to the live entertainment industry shutting down. The extra $600 in unemployment insurance was critical to ensure that Lori's family was able to pay their

mortgage, pay medical bills, car payments, and meet the basic needs of their teenage daughter.

Critical programs like the expanded unemployment insurance and the Paycheck Protection Program were essential to our record-breaking economic recovery. Because of the actions that Congress took then, the American job market has exceeded pre-pandemic levels, and we now have historic unemployment. Incredible impact.

So, thank you for this hearing. Thank you, Mr. Chairman. I yield back.

Chairman SMITH. Thank you, Representative. I would like to recognize the gentleman from Kansas, Mr. Estes.

Mr. ESTES. Well, thank you, Mr. Chairman. And I am so glad we are having this hearing today on this very important topic.

You know, the facts are that, as representatives, we have a responsibility to ensure taxpayer dollars are used efficiently and effectively. And the evidence is apparent there has been nearly unchecked unemployment fraud.

I want to be clear. In the early uncertain days of the pandemic, there were good reasons to help countless Americans who faced those unprecedented economic challenges through no fault of their own. But we are nearly three years past the first pandemic-related legislation, and my colleagues on the left have chosen to complete ignore the rampant fraud that has cost taxpayers an untold amount. The estimates in some points—in some outlets have arranged up to as high as 300 to $400 billion.

In addition to the money lost, there is evidence of gross incompetence, including from the governor's department of labor in my home state of Kansas that left many without assistance who desperately needed it. Despite unemployment being a function managed by the state, my office in Wichita received more than 1,000 calls from constituents who were negatively impacted by Kansas's unemployment system.

I have many stories of people impacted. For more than half a year, one constituent waited while her legitimate claim mysteriously ended up in the fraud department. Despite repeated calls and attempts to resolve the issue, nobody in the Kansas department of labor could help her.

Others reached out to let us know that they themselves have been victims of fraud. Several received a notification in the fall of 2020 that someone had filed claims for unemployment under their name, and received a 1099 in 2021, claiming that they owed taxes on the benefits someone else had received.

Today we still hear from Kansans who were victims of fraud, or have yet to receive benefits they deserve. These are just a few of the cases, but they point to a real problem in Kansas and across the country: taxpayers lost out to fraudsters who used the pandemic, massive amounts of Federal funds, and weak state leadership to game the system.

In May of 2021, Ways and Means Republicans held a roundtable on this subject, and I invited State Representative Sean Tarwater to testify. As the chair of the Kansas House of Commerce, Labor, and Economic Development Committee, he saw firsthand the issue of fraud and unemployment. In his testimony he said, "We have documented over 40 times the Kansas Department of Labor was

notified, directed, and informed about massive concerns regarding unemployment benefit frauds."

He also said that when the Kansas Department of Labor—when asked about the fraud, their response was they are not worried about the fraud because the "big money" was in the Federal funds, and it was mostly the Federal programs that were being targeted, and that they would always add that they were not held responsible for those funds so that it was not a priority.

Mr. Chair, I would like to submit to the record two audits conducted by the Kansas Legislative Division of Post-Audit that indicated roughly $700 million in potentially fraudulent payments were made, with half coming from state funds and half coming from Federal, or about $344 million.

Chairman SMITH. Without objection.

[The information follows:]

KANSAS LEGISLATIVE
DIVISION of
POST AUDIT

A Performance Audit Report Presented to the Legislative Post Audit Committee

Evaluating the Kansas Department of Labor's Response to COVID-19 Unemployment Claims (Part 1).

February 2021

Report Number: R-21-003

Introduction

The Legislative Post Audit Committee requested this audit and authorized it at its September 2, 2020 committee meeting.

Objectives, Scope, & Methodology

The audit request included three questions. For reporting purposes, we divided those three questions into two separate audit reports. This audit report answers the following question:

1. What types of unemployment claims fraud schemes is the Kansas Department of Labor aware of and how are they being addressed?

To answer this question we spoke to officials with the Kansas Department of Labor (KDOL), the U.S. Department of Labor's Inspector General, the Federal Bureau of Investigation, and the National Association of State Workforce Agencies to understand the types of fraud schemes that occurred nationally and in Kansas in 2020. We also interviewed KDOL officials and surveyed KDOL fraud staff to understand their process to detect fraudulent unemployment claims. We reviewed KDOL weekly reports and information they provided on fraudulent claims identified in Kansas to estimate how much unemployment fraud occurred in Kansas in 2020.

There was very limited information on the amount of fraud that occurred both in Kansas and nationally in 2020. That's because states and the federal government were still assessing the extent of fraud that occurred in 2020. We worked with KDOL officials to estimate how much fraud occurred in Kansas in 2020. However, our estimate is only intended to provide a general scale of the fraud that likely occurred in Kansas.

Several members of this audit team were either victims of unemployment fraud or knew someone that was a victim. We concluded these events did not constitute an actual impairment to the team's independence or ability to objectively complete this audit.

More specific details about the scope of our work and the methods we used are included throughout the report as appropriate.

Important Disclosures

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. Overall, we believe the evidence obtained provides a reasonable basis for our findings and conclusions based on those audit objectives.

The Kansas Department of Labor's fraud detection process was not designed to detect the large-scale, nationwide fraud campaign that occurred during the COVID-19 pandemic.

Unemployment Insurance Program Background

The Regular Unemployment Insurance program is administered by the Kansas Department of Labor (KDOL) and gives financial aid to unemployed individuals.

- The Regular Unemployment Insurance program is a joint program between federal and state governments. Although there are broad federal guidelines over the program, states establish their own criteria for who is eligible for Regular Unemployment insurance. States also decide the amount and duration of Regular Unemployment benefits.

- In Kansas, individuals must meet several criteria to qualify for Regular Unemployment benefits. For example, individuals must have met a minimum duration of employment and left work through no fault of their own (e.g., medical emergency, hostile workplace, layoffs, etc.).

- Generally, Regular Unemployment Insurance benefits are funded entirely by employer contributions in each state. Kansas employers contribute to the state's unemployment insurance trust fund, which is used to pay weekly benefits to unemployed individuals for 16 to 26 weeks depending on the state's unemployment rates. Based on state law, employers fall into two general categories:

    - A contributing entity is a private company or public employer that pays KDOL a quarterly unemployment tax before claims are made. This tax helps fund Kansas' unemployment trust fund. Contributing entities receive an annual statement summarizing their past year's charges. Charges occur when a company's former employee receives Regular Unemployment benefits. A company's future tax rate is based in part on their past charges. For example, a company with high prior-year charges could also see higher future taxes rates.

    - A reimbursing entity is a public employer, not-for-profit, or tribal entity that pays KDOL after claims are paid. They do this instead of paying a quarterly tax. Reimbursing entities are charged quarterly for any unemployment funds used. Typically, these entities are responsible for paying 100% of funds used. However, under the CARES Act, half of these employers' unemployment costs are reimbursed with federal funding. This is a temporary arrangement under the CARES Act, set to expire March 14, 2021.

- Kansas employees do not contribute any money to the trust fund.

In 2020, the federal government created three temporary unemployment insurance programs to help individuals who lost their jobs due to COVID-19.

- The COVID-19 pandemic significantly increased the unemployment rate nationally and in Kansas. Before the pandemic, the national unemployment rate was about 4% in January 2020 (about 3% in Kansas). By April 2020, the national unemployment rate rose to about 15% (about 12% in Kansas).

- In March 2020, Congress passed the CARES Act to help individuals negatively affected by the pandemic. The act included funding for three new unemployment insurance programs.

- The new programs differed from Regular Unemployment Insurance in a few ways. For example, the new programs were funded entirely with federal funds. Additionally, all the new programs were temporary and have either expired or are scheduled to expire in 2021.

- The new programs expanded unemployment benefits to include more people who lost their jobs due to COVID-19. For example, the Pandemic Unemployment Assistance program extended benefits to several new classes of workers. This included the self-employed (e.g., independent contractors) and gig workers (e.g., Uber drivers). Under this program, individuals not eligible for Regular Unemployment Insurance could receive up to about $500 per week for 39 weeks (a maximum of about $19,500) under the terms of the original CARES Act in 2020. The Federal Pandemic Unemployment Compensation (FPUC) program also gave an extra $600 per week to anyone already receiving unemployment benefits, for a period from late March through late July 2020. FPUC was renewed at a level of $300 per week in late December 2020 and will now run through Mid-March, 2021

- Benefits paid out for the temporary federal unemployment programs are paid with federal money and do not come from the state's unemployment trust fund.

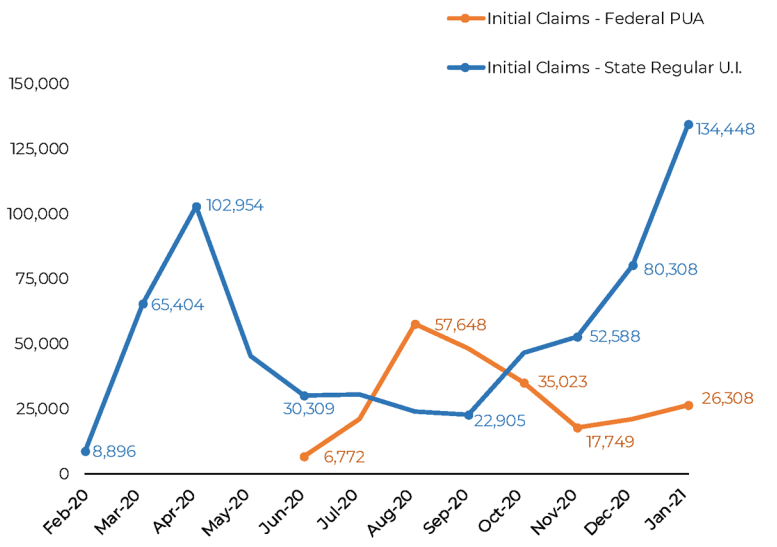
There were two main types of unemployment fraud alleged nationally and in Kansas during the pandemic.

- We reviewed claims reports from KDOL for both the state's Regular Unemployment program and the federal Pandemic Unemployment Assistance (PUA) program. That's because these programs have been specifically targeted by fraudsters during the past year. **Figure 1** shows claims filed from February 2020 through January 2021.

- COVID-19 created a massive spike in PUA claims in the summer 2020. As **Figure 1** shows, PUA claims spiked during the summer of 2020 but have steadily decreased since September 2020. It is possible the federal program saw an initial spike as individuals who needed PUA benefits applied for them for the first time. The PUA program has also been the focus of unemployment

fraud nationally and in Kansas. It is likely some portion of these claims reflect that fraud. PUA fraud is discussed in more detail in the following section.

Figure 1
Initial claims for the Regular Unemployment Program increased again in late 2020. (a)



(a) Monthly totals for initial claims only. This figure does not include continuing claims filed by claimants already receiving benefits.
Source: 2020 and 2021 KDOL Weekly Claims Reports (Unaudited).

- COVID-19 also created a massive spike in Regular Unemployment initial claims during the spring of 2020. As **Figure 1** shows, claims for the state's Regular Unemployment program increased from about 8,900 initial claims in February 2020 to about 103,00 initial claims in April. That's roughly a 1,060% increase.

- Regular Unemployment claims have spiked again in January 2021. KDOL officials told us that's because fraudsters began targeting the state's Regular Unemployment program in late 2020. Regular Unemployment fraud is discussed in more detail later in the report. It is possible that legitimate seasonal unemployment claims also contributed to this increase.

Federal Unemployment Program Fraud

Nationally, fraudsters targeted the new Pandemic Unemployment Assistance (PUA) program because of weaknesses in its application process.

- We spoke to officials with KDOL, the Federal Bureau of Investigation, the U.S. Department of Labor's Office of Inspector General, and the National Association of State Workforce Agencies. We spoke to these officials to understand what fraud schemes occurred nationally and in Kansas during the COVID-19 pandemic. According to those officials, fraudsters used a large-scale identity theft campaign to target the Pandemic Unemployment Assistance (PUA) program specifically.

- Because of how it was set up federally, fraudsters could easily falsify claims to get approved for PUA. Individuals must file a claim with KDOL to apply for and potentially receive unemployment benefits.

    - Fraudsters recognized they could apply for PUA benefits as "self-employed." Self-employed individuals were eligible for benefits under the new PUA program. Because there is no employer, states are limited in what they can do to verify the claim. This created an incentive for fraudsters to apply for PUA benefits.

    - Fraudsters could apply for PUA benefits without submitting supporting documents. To apply for PUA benefits, individuals must self-report their personal information and prior earned income. Generally, the PUA application process did not require applicants submit proof of prior income (e.g., pay stub, W2, invoices, etc.) to receive benefits. Because no documents were required, it was easy for fraudsters to file as self-employed.

- Fraudsters relied on large-scale identify theft to exploit weaknesses in PUA's application process. Fraudsters likely obtained stolen personal information from past large-scale data breaches. This could include the 2014 eBay data breach and the 2017 Equifax data breach, for example. In both cases, criminals stole the identities of over one hundred million people (e.g., names, addresses, social security numbers, etc.). Using this data, fraudsters could apply for PUA benefits in other peoples' names, usually in mass quantities.

- Unemployment funds are typically disbursed on debit cards or sent via direct deposit, making them easy to convert into cash. Like other unemployment programs, PUA benefits could be loaded on debit cards or deposited through direct deposit Fraudsters could use stolen names and social security numbers to apply but have the debit cards mailed to an address they specified. They could also have the funds deposited directly to an account of their choosing. Once they had access to the benefits it became difficult for government agencies to track or recover those funds.

- Once eligible for PUA, fraudsters could also receive additional benefits under the Federal Pandemic Unemployment Compensation program or the Lost Wages Assistance program.

Many of KDOL's existing processes were not effective to identify PUA fraud because of how the program was structured by the federal government.

- Before the pandemic, KDOL's fraud detection process was focused on the Regular Unemployment Insurance program. That program is used by employees who have an employer (e.g., not self-employed individuals). KDOL largely relied on a visual review of claims data and public assistance to identify fraud. Prior to benefits being paid, KDOL officials told us they reviewed state and federal wage reports to confirm claimants were recently employed. Claim notices were also sent to former employers, giving them a chance to contest the claim as potentially fraudulent. KDOL told us they also reviewed claims data for trends that might indicate fraud, including suspicious log-in credentials and duplicated fields. Claims were approved for payment if no red flags were raised during this process.

- Because of how the program was federally structured, the PUA program made it possible for fraudsters to circumvent KDOL's existing process for verifying potentially fraudulent claims with employers.

- Moreover, many of KDOL's other fraud detection methods were manual and not effective against the high number of claims filed during the pandemic. Unemployment claims for both Regular Unemployment and PUA increased dramatically during the pandemic in 2020. KDOL officials told us their fraud staff at the time were overwhelmed and did not have time to do a detailed review (e.g., comparing claims to wage reports or new-hire reports) on all claims during this time.

- During the pandemic, KDOL implemented two anti-fraud measures in addition to their existing processes.

    - In July 2020, KDOL put a 72-hour hold on all PUA claims before benefits could be paid out. They told us that KDOL staff reviewed PUA claims data during this time to identify suspicious information that could indicate fraud. KDOL staff put holds on any suspicious PUA claims, preventing payment.

    - KDOL also started a public campaign in August 2020 to ask individuals to report cases of identity theft and unemployment fraud. KDOL staff could then stop payment associated with those claims.

- KDOL officials told us that as of December 2020, about 157,000 claims were identified or reported as fraudulent. That's about 24% of the roughly 650,000 claims filed during that time. It wasn't clear to KDOL at the time of the audit how many of the fraudulent claims were related to the Regular

Unemployment program and how many were related to the temporary federal unemployment programs.

KDOL officials told us they are in the process of upgrading their fraud detection process to better identify PUA and other unemployment fraud.

- In December 2020, KDOL officials told us they partnered with a private company to improve its data analytic capabilities. KDOL officials hope this arrangement will give them access to new automated tools. These include programs that automatically flag claims data as suspicious, machine learning to identify new fraud trends, and a consistent way to score a claim's risk for fraud. These new automated tools could help make KDOL's fraud detection process more effective and efficient. KDOL officials hope to have these tools in place by early 2021.

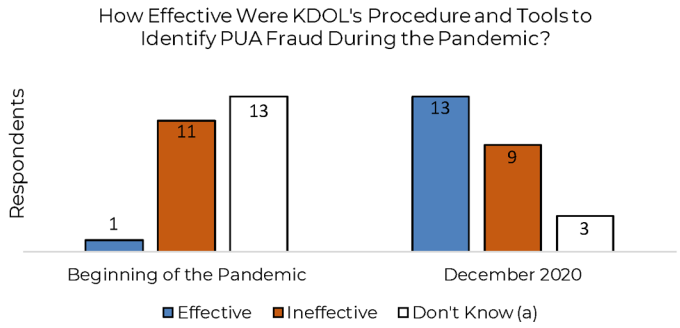
- In January 2021, KDOL implemented an identity verification system that could help combat cases of identity theft and unemployment fraud. Under the new system, all claimants are sent to a third-party site and asked to answer a series of questions to help verify their identify. The system uses a claimant's credit history to generate questions that only they should know. The claimant must successfully answer the questions in order to apply for benefits. This system could help reduce identify theft and fraudulent claims in Kansas.

- KDOL officials hope staff will have broader access to multi-state checks by February 2021. During the pandemic KDOL gained access to a data integrity hub that allows states to cross-check their unemployment claims data to better identify suspicious claims. However, IT limitations prevented all KDOL staff from having access to these tools in 2020.

- KDOL officials plan to document these and other new fraud detection procedures in the near future. Prior to the pandemic KDOL officials did not have a documented policy for their fraud detection process. A lack of a documented process could lead to inconsistencies in how KDOL staff look for fraud. KDOL officials understand the need to document their process and told us they plan to do so after they finish upgrading their process.

- KDOL fraud staff reported mixed reviews of KDOL's fraud detection measures. We surveyed all 36 KDOL fraud staff for their opinion on issues related to KDOL's fraud detection process. **Figure 2** shows the results of the survey. As the figure shows, of the 25 staff that responded (69% response rate) only one respondent said KDOL's process was effective to identify PUA fraud at the beginning of the pandemic. 13 respondents said KDOL's process to detect PUA fraud was effective as of December 2020. However, 9 staff still said the fraud detection process was ineffective in December 2020.

Figure 2
KDOL staff had mixed opinions on the effectiveness of KDOL's fraud detection process



(a) 13 respondents said they did not know how effective KDOL's procedures or tools were at the beginning of the pandemic. KDOL hired additional fraud staff as the pandemic continued. It is possible these staff were not employed or just recently employed at the beginning of the pandemic.
Source: LPA survey of KDOL fraud staff.

State Unemployment Fraud

Fraudsters targeted the state's Regular Unemployment program beginning in late 2020.

- According to KDOL officials, around November 2020 there was a rise in reported fraud cases targeting the state' Regular Unemployment program.

- KDOL officials could not tell us how many of the Regular Unemployment claims filed during this time were fraudulent, or how this fraud occurred. They speculate that fraudsters filed for Regular Unemployment in mass quantities to try and overwhelm the state's system. It is unclear at this time to what extent Regular Unemployment systems in other states were also targeted.

- KDOL officials told us they were still looking into how exactly fraudsters penetrated the state's Regular Unemployment system. KDOL officials speculated fraudsters attempts to overload the unemployment system could have impeded employers' ability to report fraudulent notices. Employers have 10 days to contest a claim from the time they receive a claim notice. Claims are processed for payment if not contested by an employer within 10 days. We were unable to determine whether these claims were sent timely as part of this audit.

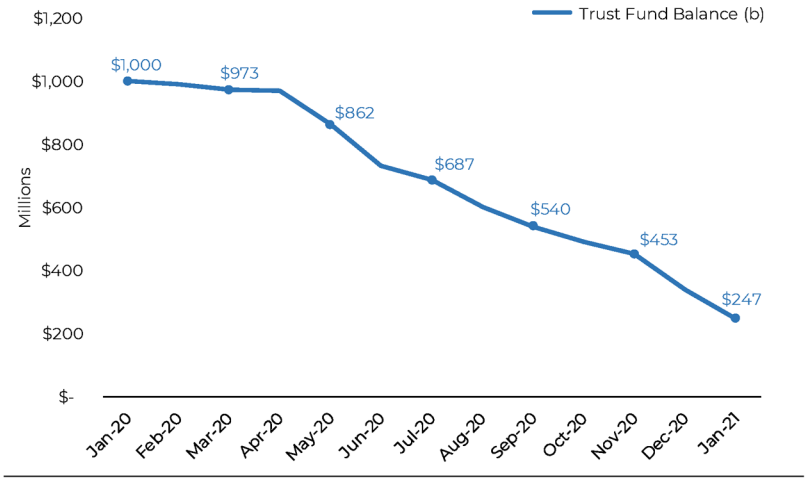
- Additionally, KDOL's fraud detection process was fairly manual. It is possible overloading the system with claims made it difficult for KDOL staff to review claims for fraud.

The state's unemployment trust fund balance has declined 75% in one year.

- The state's unemployment trust fund is used to pay Regular Unemployment claims. Most companies and public organizations pay KDOL a quarterly unemployment payroll tax to support the fund. Other public entities reimburse the trust fund for unemployment funds used to pay claims for their employees. Benefits paid out for the temporary federal unemployment programs do not come from the state's unemployment trust fund.

- **Figure 3** summarizes the monthly balance of the state's unemployment trust fund. As the figure shows, the balance of the state's unemployment trust fund dropped from about $1 billion in January 2020 to about $247 million as of January 25, 2021. That's about a 75% decrease. This is largely because January 2020 was the last month the fund had a positive net contribution. This means unemployment benefits paid out of the fund have exceeded tax contributions into the fund since February 2020.

Figure 3
The state's unemployment trust fund has declined 75% in one about one year (a).



(a) Trust fund balances through January 25, 2021.
(b) Trust fund balances are month-end balance.
Source: KDOL regular unemployment trust fund data. 2020 and 2021. (Unaudited)

- It was unclear at the time of this audit how much of this decrease was related to fraudulent claims. Both legitimate and fraudulent unemployment claims could be depleting the state's unemployment trust fund. As **Figure 1** showed, there were a significant number of claims filed for the Regular Unemployment program, both early in the pandemic and beginning again in November 2020. Both legitimate and fraudulent benefits would negatively affect the balance of the state's trust fund.

- Employer tax rates were adjusted to help replenish the state's unemployment trust fund. According to KDOL officials, employer tax rates are based in part on the state's unemployment trust fund balance. Historically, employers' tax rates were discounted up to 0.5% when the fund was in a surplus. This discount effectively reduced some companies' contribution rates to zero. However, KDOL officials told us they had to remove this discount per state law as the trust fund diminished last year. It is possible that alternative funding solutions may be needed to help replenish the state's trust fund.

Estimated Unemployment Fraud

Of the roughly $2.6 billion in state and federal unemployment benefits paid in Kansas in 2020, we estimated about $600 million (24%) could have been fraudulent.

- There was little information on how much fraud occurred in Kansas in 2020. Each year the U.S. Department of Labor reviews a sample of unemployment claims in each state to determine an estimated fraud rate. However, the U.S. Department of Labor did not have a complete 2020 fraud rate available at the time of this audit. KDOL officials reported about 157,000 potentially fraudulent claims were reported or identified from March 2020 (when the pandemic began) through the end of November 2020. However, KDOL officials had not yet assigned a dollar value to those claims at the time of this audit.

- As a result, we developed a preliminary estimate of how much fraud could have occurred in Kansas in 2020. We determined the 157,000 potentially fraudulent claims were about 24% of the roughly 650,000 initial claims filed from March through November 2020. We applied this estimated fraud rate to the total state and federal benefits paid out in 2020. This is meant to be a preliminary estimate only. We will use KDOL claims data to provide a more precise fraud estimate in part two of this audit.

- We estimated about $600 million in state and federal funds paid out in Kansas in 2020 could have been fraudulent. In total, KDOL reported expending about $2.6 billion on state and federal unemployment funds. That's comprised of about $970 million in state funds and $1.6 billion in federal funds. Applying our 24% fraud rate, we estimated

  - about $200 million in fraud in state funds
  - about $400 million in fraud in federal funds

- In its response, KDOL estimated about $300 million in unemployment benefits were paid on claims they identified as potentially fraudulent in 2020. Our analysis in part two of this audit will include a similar analysis. In addition, we also hope to use KDOL claims data to estimate how much in unemployment benefits were paid that KDOL did not identify as potentially fraudulent. For that reason, our estimate will likely exceed KDOL's initial estimate of $300 million.

Our fraud estimate is subject to some key assumptions and limitations.

- We included unemployment funds expended through Kansas' and the federal unemployment programs in 2020. Although it appeared PUA, and federal programs tied to PUA, were targeted during the pandemic, it is likely the state's Regular Unemployment program was also attacked to some degree in 2020. During our fieldwork, KDOL could not estimate how many of the 157,000 fraudulent claims it identified were related to the state's unemployment program versus the federal unemployment programs. Given this uncertainty, we applied our 24% fraud rate evenly between state and federal funds expended in 2020.

- Our estimate was based on the 157,000 total claims KDOL identified as potentially fraudulent. It is likely that more fraudulent claims occurred that KDOL did not catch. This would understate our estimate. For that reason, it is possible the actual amount of fraud that occurred in Kansas in 2020 was much higher.

- Not all of the 157,000 cases KDOL identified as potential fraud will be fraudulent. These claims were flagged and stopped by KDOL staff as suspicious but need to be investigated by KDOL law enforcement to determine fraud. It is likely not all 157,000 cases will end up being fraud. This would overstate our estimate.

- Our estimate included some Regular Unemployment benefits that were paid in January and February 2020, which could be considered pre-pandemic. However, given the relatively low number of claims filed during this time it is unlikely to significantly affect our estimate.

Impacts on Kansas Employees and Employers

If not reported to or stopped by KDOL, Kansas employees could owe taxes on benefits they never filed or received because of fraudulent claims.

- According to KDOL, benefits received under both the state's Regular Unemployment program and the temporary federal programs are considered taxable income. Claimants that received benefits in tax year 2020 will receive a

1099-G form from KDOL showing taxable benefits. Claimants need to include those benefits when filing their income taxes, which will likely increase their tax liability.

- Victims of unemployment fraud may receive 1099-G forms for unemployment benefits they never received. KDOL officials told us they attempted to flag, amend, and prevent 1099-G forms tied to known fraud cases from ever being mailed out. However, individuals still received 1099-G's for unemployment benefits they did not file or receive.

- KDOL officials were not able to provide the number of 1099-G forms that were sent in error. KDOL officials told us some forms were sent before the claim was identified as fraud. In other cases, the form may be tied to a fraudulent claim that KDOL never identified.

- KDOL officials told us anyone who received a 1099-G in error should contact them to amend it. If the individual does not report the fraud to KDOL, those individuals could be responsible for paying taxes on the fraudulent benefits. Individuals need to file an unsworn statement with KDOL attesting the form was sent in error. This should eliminate any taxes owed related to fraud. KDOL officials urge anyone who received a 1099-G form in error to contact the department's Tax Call Center at **785-575-1461** or by calling toll-free at **1-888-499-0063** to fill out this form. Individuals can also complete the form online by visiting www.UIAssistance.GetKansasBenefits.gov. There is no deadline for protesting a fraudulent 1099-G.

If not appealed or stopped by KDOL, private and public employers could be financially responsible for fraudulent claims filed under the state's Regular Unemployment program.

- Generally, an employer either pays for unemployment funds as a contributing entity or a reimbursing entity. Employers either contribute payroll taxes to the fund before claims are made (contributing) or pay no tax upfront but reimburse the fund after claims are made (reimbursing). Employer tax rates are based on a number of things including how long the employer has been in business, the employer's industry type, and their past payment experience.

- If not appealed in time, contributing and reimbursing entities could be financially responsible for fraudulent claims tied to the state's Regular Unemployment program.

    - Because contributing entities' tax rates are based on past charges, fraudulent charges against their account could increase their future tax rates.

    - Because reimbursing entities are responsible for paying KDOL back for benefits paid out, these organizations could be responsible for paying KDOL back for fraudulent claims. However, under the CARES Act, the

federal government repays reimbursing entities half of their unemployment costs. This could help reduce the employer costs associated with fraudulent claims by 50%. This provision of the CARES Act is set to expire March 14, 2021.

- Contributing entities receive "charge statements" annually and reimbursing entities receive them quarterly. These statements could alert them to fraudulent behavior. KDOL officials told us any private or public organization needs to contact KDOL to protest fraudulent charges. Depending on the circumstance, KDOL told us employers have 15 to 20 days to protest a statement once mailed. Otherwise, they could be responsible for the financial impact of the fraud. It is important to note that annual charge statements for contributing agencies are based on fiscal years. As such, fraud that occurred between July 1, 2020 and June 30, 2021 won't be reflected until 2021's statements. Those statements won't be mailed until October 2021.

- KDOL officials were unable to determine how much private and public organizations were charged due to fraud. KDOL officials told us they attempted to stop statements associated with claims flagged as fraud. However, it is possible some statements went out before the claim was flagged. Other statements might be associated with fraudulent claims KDOL never identified. For these reasons, KDOL officials told us they could not determine how much organizations were charged due to fraud.

- It is important to note this issue only applies to fraud within the state's Regular Unemployment program. Public and private employers would not be affected by fraud within the temporary federal unemployment programs, such as PUA.

KDOL reported potentially fraudulent cases to federal agencies for investigation but focused its investigative resources on stopping fraudulent claims during the pandemic.

- KDOL's special investigations unit is responsible for the criminal investigation of potentially fraudulent claims. At the time of this audit, the unit consisted of five licensed law enforcement officers and one special investigator.

- KDOL officials told us they prioritized stopping fraudulent claims over pursuing criminal charges. Officials told us the special investigations unit was reassigned during the pandemic to help identify and stop potentially fraudulent claims.

- KDOL officials told us they are in the process of working with federal agencies to investigate potentially fraudulent claims. These agencies include the Federal Bureau of Investigation and the U.S. Department of Labor's Office of Inspector General for investigation. It is possible that out-of-state or out-of-country cases could be turned over to those offices for investigation.

Conclusion

The COVID-19 pandemic created a unique opportunity for fraudsters across the nation. It resulted in a massive spike in unemployment claims that would challenge even the most adept unemployment systems. It also resulted in a new federal Pandemic Unemployment Assistance program with far fewer verification requirements than the state's program. Kansas was clearly not well prepared to address either situation. The combined effect has been significant fraud within the federal program and some fraud almost certain to affect the state's program.

Recent trends suggest that the state's unemployment system is now being targeted by fraudsters. This could have significant consequences for some Kansas employers, especially nonprofits, government entities, and tribal organizations that chose to reimburse the state instead of making unemployment contributions. That is because these employers are currently responsible for covering the costs of these claims unless they can successfully appeal them. Moreover, Kansas taxpayers are hurt by fraud at both the federal and state level. Not only because their identities have been stolen, but because they may face a tax liability if they don't report fraudulent benefits they never received.

Recommendations

We did not have any recommendations for part 1 of this audit but will be considering recommendations for part 2.

Agency Response

On February 16, 2021 we provided the draft audit report to the Kansas Department of Labor. The Department raised a number of concerns with the report findings and our fraud estimate. The agency's full response is below. We carefully reviewed the information agency officials provided, but ended up only making minor changes to our findings.

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Amber Shultz, Acting Secretary

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CONFIDENTIAL



Matt Etzel
Legislative Division of Post Audit
800 SW Jackson St., Suite 1200
Topeka, KS 66612

RE: Audit Objective 3 of the Kansas Department of Labor's COVID-19 Unemployment Claim Response

Dear Mr. Etzel:

On behalf of the Kansas Department of Labor (KDOL), I welcome the opportunity to respond to the above-referenced audit (the Audit). While KDOL recognizes Kansas Legislative Division of Post Audit's (LPA's) cooperation in exchanging data for the Audit, KDOL is disappointed that the data was not used to provide a credible estimate of the extent of unemployment insurance fraud in Kansas.

LPA's estimate of $600 million in potential fraud is flawed in both its underlying assumptions and methodologies, and for the reasons laid out below, KDOL requests LPA withdraw this estimate as insufficiently supported. Critically, KDOL believes LPA misunderstands how fraud is distinct between the new federal unemployment insurance programs and the existing state unemployment insurance system. Addressing unemployment insurance fraud is of paramount importance to the state of Kansas and the nation. We hope this response clears up some confusion that may have adversely affected the Audit's findings.

Since the passage of the CARES Act, international and domestic fraudsters have acted in a highly coordinated effort to defraud state unemployment trust funds across the nation and the federal Pandemic Unemployment Assistance program. According to conservative estimates from the United States Department of Labor (USDOL), this fraud totals at least $360 billion. Sources further indicate that this is an issue being faced by all 50 states, Washington D.C., and United States territories.

Executive Summary:

The Audit suffers from three major flaws, which have permeated the entire audit. First, LPA's estimate of fraud at the state and federal level has not been reliably generated. There are errors in the underlying assumptions. KDOL's chief concern is the completely unsupported assumption that there was a uniform fraud rate between the state and federal unemployment programs. Even LPA acknowledges the limitations of its assumptions, including the uniform fraud rate. This estimate should be withdrawn because it is not sufficiently supported. Second, LPA misunderstands important distinctions between the new federal pandemic unemployment insurance programs and the existing state unemployment insurance program. For example, LPA fails to understand the consequences surrounding USDOL's guidance on the Pandemic Unemployment Assistance (PUA) program that states are prohibited from asking claimants to provide documentation to prove eligibility and the impact it has on KDOL's ability to combat fraud. This issue was even publicly debated between USDOL's internal watchdog, the Office of Inspector General (OIG), and Employment and Training Administration (ETA), but ETA doubled-down that PUA claimants were not required to provide documentation to prove eligibility. Congress resolved this vulnerability in the PUA program and amended the law on December 27, 2020. Third, LPA misunderstands KDOL's measures to combat fraud. KDOL's fraud detection processes comply with federal guidance, and if LPA had examined the efficacy of these processes, LPA would have recognized that many of them—even if automated—would not have rapidly and proactively prevented, detected, and investigated fraudulent activity in the PUA program.

I. The estimate of $600 million in potential fraud is flawed and should be withdrawn.

LPA estimated the level of potential fraud by taking the number of claims KDOL identified as fraudulent (157,000), dividing by the total number of initial claims filed between March through November of 2020 (650,000), to arrive at an estimated fraud rate of 24%. LPA then applied this fraud rate to the total paid out in federal and state benefits ($2.6 billion) to arrive at an estimate of $600 million.

There are several issues with this analysis, which LPA acknowledges as limitations when discussing its assumptions. First, not all of the 157,000 identified potential fraud claims paid out. This number represents those claims that were flagged as potential fraud, and in many cases stopped before funds were paid on the claim. LPA notes this limitation on page 11, and states that this issue would overstate LPA's estimate. Further, LPA notes that the 157,000 potentially fraudulent claims are just those identified by KDOL, and that the actual number may be higher for the potentially fraudulent claims KDOL did not catch. Thus, LPA acknowledges there is both potential to overestimate and underestimate, but LPA does not, nor would it be prudent to do so, suggest the potential overestimate and underestimate

counterbalance such that there is an appreciable degree of confidence in the overall estimate.

The second issue with LPA's methodology is that it used a uniform fraud rate of 24% in estimating potential fraud in both state and federal programs. As discussed in more detail below, the PUA program, one of the new temporary federal programs, was rife with fraud because of how the federal legislation was drafted and because it was an entirely new unemployment insurance system for which traditional anti-fraud measures used in the state unemployment insurance system were not readily adaptable.

LPA acknowledged this limitation in the audit, but referred to it as an "uncertainty" on page 11; despite this uncertainty, LPA forged forward to provide estimates of potential state and federal fraud. Additionally, LPA **did not use** the data provided by KDOL to develop an estimate rooted in more realistic data. For example, LPA could have taken the list of claimants with fraud codes placed and cross-referenced that with the list of payments made. That relatively simple analysis, similar to what KDOL is performing and finalizing internally, would have produced numbers with at least some basis in reality, such as the below (which was developed with exactly the data provided to LPA by KDOL):

	Amount Paid to Claimants with Fraud Codes, by Program
EB	$ 689,587.00
PEUC	$ 5,056,403.00
PUA	$ 42,040,362.00
UI REGULAR	$ 137,401,838.00
FPUC	$ 105,537,476.00

Unfortunately, the impact of the uncertainty on LPA's estimates with the methodology utilized in the audit cannot be ignored and has not been quantified. KDOL respectfully requests these estimates be withdrawn as insufficiently supported and encourages LPA to use the data provided to develop more realistic estimates.

II. LPA oversimplifies, neglects, and misstates the laws and requirements regarding state unemployment insurance.

The state unemployment insurance program is a joint program between federal and state governments. However, there is more to the state unemployment insurance program than LPA's simplification of "broad federal guidelines" as described on page 2. State unemployment insurance programs are governed in part by Sec. 303 of the Social Security Act (SSA).[1] Sec. 303 of the SSA specifies what states must include in their unemployment insurance laws. This entails, just to name a few of the federal requirements, how the state can use money from their state unemployment insurance trust fund and what information claimants are required to disclose.[2]

And while the states do establish criteria for who is eligible for state unemployment insurance, they do not have free reign to do whatever they want. States have limited flexibilities for establishing their own eligibility criteria subject to compliance with federally-mandated eligibility requirements.

LPA misunderstands certain unemployment insurance eligibility requirements when it stated that Kansas employees must meet "a minimum duration of employment." State law requires individuals to be monetarily entitled to receive unemployment insurance, meaning they must have received wages from insured employment in two or more quarters of their base period, and have total base period wages equaling at least 30 times their calculated weekly benefit amount.[3]

LPA misstates the law once again and says funding of the Kansas' unemployment insurance program falls exclusively on Kansas employers. LPA's generalization is not only overly simplistic, but it is also misleading. There are several funding mechanisms that contribute to administering the entire state unemployment insurance program, such as federal government grants and public employment services programs.[4]

What LPA should have clarified is that the state unemployment insurance trust fund that pays unemployment insurance benefits to claimants is funded by employer contributions. Employers are charged only for state unemployment insurance benefits paid to claimants who are eligible and qualified. As LPA pointed out, the state unemployment insurance program is a joint program between federal and state governments, meaning the federal government helps fund the administration of a state's unemployment insurance laws and Kansas employers fund the state unemployment insurance trust fund.

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[1] 42 U.S.C. 503, et seq.
[2] 42 U.S.C. 503, et seq.
[3] K.S.A. 44-705(e).
[4] See 20 C.F.R. 601.6.

To be clear, none of the employers described below will be charged for benefits paid out under any of the federal unemployment insurance programs created in response to the COVID-19 pandemic.

- **A Contributing Employer** is any employer other than a reimbursing employer.[5] A contributing employer is required to report total wages paid each employee during each quarter, but pays taxes based upon a taxable wage base as defined in K.S.A. 44-703(o)(1). The quarterly tax funds the Kansas unemployment trust fund. Contributing entities receive an annual statement of their pro rata share of unemployment benefits which were charged to their account. The benefit charges will be used in the computation of the annual contribution experience rate.[6]

  Contributing employers will not be charged if KDOL finds that one of their employees (1) was discharged for misconduct, (2) left work voluntarily, or (3) was discharged from an employer directly impacted by COVID-19.[7] **Contributing employers will not be charged for claims KDOL determines are fraudulent.**

- **A Reimbursing Employer** is only available to nonprofit 501(c)(3) organizations, governmental entities, or tribal entities.[8] With this option, the employer reports total wages paid each employee each quarter, but pays no tax at the time. Instead, the law requires the employer to reimburse the fund 100 percent for any benefits paid to their former employees with quarterly statements.[9]

  LPA is correct that under the CARES Act, the federal government allowed KDOL to reduce reimbursing employer's contributions by 50%.[10] Congress had many opportunities to amend the CARES Act and allow the states to reduce reimbursing employer's contributions by 100%, but decided to leave it at 50%. **Reimbursing employers will not be charged for claims KDOL determines are fraudulent.**

- **A Rated Governmental Employer** may elect to make payments to the Unemployment Insurance Trust Fund as a contributing employer, reimbursing employer, or a rated governmental employer.[11] If a rated governmental employer choses to make payments as such, then they report and make benefit cost payments based upon total wages paid during each calendar quarter. Rated governmental employers eligible for a contribution rate make quarterly payments at a calendar

[5] K.S.A. 44-703(y).
[6] See K.S.A. 44-710(b).
[7] K.S.A. 44-710(c)(2)(A).
[8] K.S.A. 44-710(e).
[9] K.S.A. 44-710(e)(2).
[10] Sec. 2103(b) of the CARES Act, as amended by the Protecting Nonprofits from Catastrophic Cash Flow Strain Act of 2020, Pub. L. 116-151, as amended by Sec. 202 of the Continued Assistance for Unemployed Workers Act of 2020.
[11] K.S.A. 44-710d.

year rate determined by the experience of all rated governmental employers and the individual employer's experience.

Rated governmental employers are not charged if KDOL finds that one of their employees was discharged for misconduct, left work voluntarily, or were discharged from an employer directly impacted by COVID-19.[12] **Rated governmental employers will not be charged for claims KDOL determines are fraudulent.**

III. LPA oversimplifies, neglects, and misstates the laws and requirements regarding the federal unemployment insurance programs Congress has created in response to the COVID-19 pandemic.

A. LPA fails to understand the consequences surrounding the PUA program's requirement that claimants do not need to provide documentation to prove eligibility and the impact it has on KDOL's ability to combat fraud.

LPA briefly mentioned that fraudsters have targeted the PUA program because they do not have to submit supporting documentation to prove eligibility. However, LPA ends the analysis there. What LPA fails to recognize is that requiring claimants to provide documentation is an anti-fraud tool. KDOL was prohibited from requiring claimants to provide documentation to establish their eligibility because of federal law and guidance, until recently.

As explained in further detail below, PUA is a federal unemployment benefit program created on March 27, 2020 under the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 that provides benefits to individuals who are either ineligible or have exhausted all their rights to regular unemployment insurance, PEUC, and other federal and state unemployment insurance programs. USDOL has referred to PUA as a "benefit of last resort."[13] To be eligible for PUA, claimants only have to self-certify that they are otherwise able and available to work within the meaning of state unemployment insurance law, except that they are unemployed, partially unemployed, or unable or unavailable to work due to one of the COVID-19 related reasons identified in the CARES Act.[14]

Due to an influx of questions from the states on implementing this brand new program, USDOL issued additional guidance to address the states' questions on April 27, 2020.[15] In this new guidance, **USDOL stated that PUA claimants do not need to provide "proof of employment**

[12] K.S.A. 44-710(e)(2)(A).
[13] UIPL 16-20, Change 1, Attachment I, I-8 Q 33.
[14] Sec. 2102(a)(3)(A)(ii)(I) of the CARES Act.
[15] UIPL 16-20, Change 1, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Pandemic Unemployment Assistance (PUA) Program Reporting and Instructions and Questions and Answers, available at* https://wdr.doleta.gov/directives/attach/UIPL/UIPL_16-20_Change_1.pdf.

or self-employment to qualify for PUA, nor does PUA take into account the individual's principal source of income as part of the self-certification process."[16]

Kansas was very concerned with this guidance, as proof of employment and wages are two key tools that states use to combat fraud. This guidance even prompted USDOL-OIG to publicly voice its concerns to USDOL-ETA on May 26, 2020 that, "state's reliance on self-certifications alone to ensure eligibility for PUA will lead to increased improper payments and fraud."[17] For example, USDOL-OIG stated that, "An individual could continue to receive an average of $775 per week based solely on an initial undocumented self-certification statement that one of the COVID-19 related reasons were met; and by acknowledging any intentional misrepresentation to obtain PUA benefits constitutes fraud."[18] Applying the FPUC program to USDOL-OIG's scenario, this hypothetical payment could be increased to $1,375 per week. USDOL-OIG provided USDOL-ETA with its interpretation and argued that states have the authority to require claimants to submit documentation to substantiate employment and wages, so that only legitimate claimants would receive PUA funds.

USDOL-ETA agreed with USDOL-OIG that the way the CARES Act is "statutorily construct[ed] may introduce a degree of risk of fraud" in its response on June 5, 2020.[19] However, USDOL-ETA noted that it is sole arbiter of policy pronouncements and legal interpretations, and is "singularly charged with providing guidance to the states for administering the self-certification eligibility process under the PUA statute."[20] USDOL-ETA doubled-down on its guidance prohibiting states from requiring PUA claimants to submit any documentation as a condition of eligibility to substantiate (1) employment or self-employment, (2) why they are unemployed due to COVID-19, or (3) wages. The only instance where PUA claimants are required to provide documentation is if they want a weekly benefit amount (WBA)

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[16] UIPL 16-20, Change 1, Attachment I, I-1.
[17] Memorandum (i.e. OIG Alert Memorandum) from Elliot P. Lewis, Assistant Inspector General Office of Audit, OIG-USDOL, for John P. Pallasch, Assistant Secretary of ETA, Subject: *Alert Memorandum: The Pandemic Unemployment Assistance Program Needs Proactive Measures to Detect and Prevent Improper Payments and Fraud Report Number: 19-20-002-03-315*, page 1, issued May 26, 2020, *available at* https://www.oversight.gov/sites/default/files/oig-reports/Alert%20Memorandum%20The%20Pandemic%20Unemployment%20Assistance%20Program%20Needs%20Proactive%20Measures%20to%20Detect%20and%20Prevent%20Improper%20Payments%20and%20Fraud.pdf.
[18] OIG Alert Memorandum, page 1.
[19] Memorandum (i.e. ETA Response Memorandum) from Kate O'Scannlain, Solicitor, ETA-USDOL and John Pallasch, Assistant Secretary of ETA, for Scott S. Dahl, Inspector General OIG-USDOL, Subject: *Response to the Office of Inspector General's (OIG) Alert Memorandum: The Pandemic Unemployment Assistance Program Needs Proactive Measures to Detect and Prevent Improper Payments and Fraud, Report Number: 19-20-002-03-315*, page 3, issued June 5, 2020, *available at* https://www.morganlewis.com/-/media/files/document/2020/covid-19/Response-to-Office-of-Inspector-Generals-Alert-Memorandum.pdf.
[20] ETA Response Memorandum, page 2. If not, States do not know if they can continue to follow the guidance ETA provides on all federal-state unemployment insurance program and requirements.

greater than the minimum. [21] Thus, even if claimants fail to provide documentation to substantiate a higher WBA, a claimant remains eligible for PUA.

Recognizing that states were hampered to combat PUA fraud, **Congress amended the law on December 27, 2020. The law now requires claimants to provide documentation to substantiate their employment or self-employment to be eligible to receive PUA.**[22] KDOL now requires all PUA claimants, those who previously received PUA payments and those who will file new PUA claims, to provide employment/self-employment documentation. Failure of claimants to do so will result in them being ineligible for PUA and possible overpayments.

B. LPA misunderstands the number of federal unemployment insurance programs that were created under the CARES Act, when they were created, and how they were created.

First, LPA states that the CARES Act "created funding for six new unemployment insurance programs." The CARES Act did not create six new unemployment insurance programs. The CARES Act created three:

1. **Pandemic Unemployment Insurance (PUA)** provided up to 39 weeks of unemployment insurance benefits to individuals who have either exhausted their entitlement to regular UC or are not eligible or qualify for regular UC (i.e. individuals who are self-employed, have limited recent work history, certain gig economy workers, clergy and those working for religious organizations).[23] To be eligible for PUA, individuals must also be otherwise able and available for work within the meaning of state unemployment insurance law, except that they are unemployed, partially unemployed, or unable or unavailable to work due to a specific COVID-19 related reason identified in the CARES Act.[24] The individual must self-certify to the specific reason why they are unable or unavailable to work due to COVID-19. [25] Under Sec. 201(b) of the Continued Assistance for Unemployed Workers Act of 2020 (CAA), which was signed into law on December 27, 2020, PUA was expanded to provide claimants up to 50 weeks of unemployment insurance benefits to these individuals.

2. **Pandemic Emergency Unemployment Insurance (PEUC)** provided unemployment insurance benefits to claimants in the amount of 13 times their calculated weekly benefit amount if they have exhausted all their rights to regular

[21] ETA Response Memorandum, page 7.
[22] See Sec. 241 of the CAA.
[23] See Sec. 2102 of the CARES Act (Pub. L.) 116-136.
[24] Sec. 2102(a)(3)(A)(ii)(I) of the CARES Act.
[25] Sec. 2102(a)(3)(A)(ii) of the CARES Act.

unemployment insurance under state or federal law.[26] Claimants must otherwise be able to work, available to work, and actively seeking work similar to regular unemployment insurance claimants.[27] Under Sec. 206(b) of the CAA, PEUC was expanded to provide claimants with benefits in the amount of 24 times their calculated weekly benefit amount.

3. **Federal Pandemic Unemployment Insurance (FPUC)** provided an additional $600 per week to individuals who are collecting at least $1 of unemployment insurance from either state or federal programs.[28] The first week this additional $600 was payable was the week ending April 4, 2020.[29] The FPUC program expired on July 31, 2020.[30] Under the CAA, the FPUC program was reactivated, but now provides an additional $300 per week to individuals collecting at least $1 of unemployment insurance from either state or federal programs. FPUC at $300 is set to expire the week ending March 13, 2021.

These three programs were the only new federal unemployment insurance programs created by the CARES Act. Although LPA is correct that these programs are federally funded, LPA neglects to inform in its Audit that employers will not be charged for benefits paid under any of these programs.

What LPA should have clarified is that after FPUC expired, the President established the **Lost Wage Assistance Program (LWA)** through a Presidential Memorandum, and was a program administered by the Federal Emergency Management Agency (FEMA).[31] LWA provided claimants who were receiving at least $100 of unemployment insurance from state or federal programs up to $400 of wage assistance per week, with a $300 federal contribution. The remaining $100 had to be contributed by the state. Kansas chose to meet its $100 contribution per claimant with the payments KDOL makes for regular unemployment insurance benefits to claimants that met the requirement to be unemployed or partially unemployed as a result of COVID-19.[32] LWA claimants also had to self-certify that they were unemployed or partially unemployed because their work or workplace was directly impacted by the COVID-19

[26] See Sec. 2107 of the CARES Act.
[27] See Sec. 2107 of the CARES Act.
[28] Sec. 2104 of the CARES Act.
[29] UIPL No. 15-20, *Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 - Federal Pandemic Unemployment Compensation (FPUC) Program Operating, Financial, and Reporting Instructions*, page 3, issued April 4, 2020, *available at* https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=9297.
[30] Sec. 2104(e)(2) of the CARES Act.
[31] Authorizing the Other Needs Assistance Program for Major Disaster Declarations Related to Coronavirus Disease 2019, August 8, 2020.
[32] UIPL 27-20, *Presidential Memorandum on Authorizing the Other Needs Assistance Program for Major Disaster Declarations Related to Coronavirus Disease 2019 (COVID-19)-Unemployment Insurance (UI)-Related Technical Assistance for States Administering Lost Wages Assistance (LWA)*, page 4, issued August 12, 2020, *available at* https://wdr.doleta.gov/directives/attach/UIPL/UIPL_27-20.pdf.

pandemic. LWA was only available for the weeks ending August 1, 2020 through September 5, 2020 and is funded by FEMA.

The other program that LPA may be referring to is the **Federal-State Unemployment Insurance Extended Benefits (EB) Program**. Kansas' EB program can be found in K.S.A. 44-704a and K.S.A. 44-704b and provides claimants either 13 weeks or 20 weeks of unemployment insurance benefits, depending on the state unemployment rate, to individuals who have exhausted regular unemployment insurance and PEUC. [33] Contributing employers and rated governmental employers are not charged for any EB benefits paid.[34] Furthermore, as authorized by Sec. 2103 of the CARES Act, KDOL is permitted to reduce the amount of EB benefits charged to a reimbursing employer by 50%.

IV. LPA misunderstands that anti-fraud tools used in the state unemployment insurance program do not adequately address: (A) fraud prevention in the federal PUA program as the PUA program did not require individuals to provide proof of self-employment until Congress created this eligibility requirement through the recently enacted CAA in late December of 2020; and (B) prevention and detection of imposter claims resulting from identity theft.

In its Audit, LPA concludes that "[m]any of KDOL's existing processes were manual and not effective to identify PUA fraud." To support its conclusion, LPA appears to be blindly relying on their KDOL staff emailed survey rather than doing an in-depth analysis of the federally-recommended anti-fraud tools that KDOL had in place at the time LPA conducted the Audit.

A. PUA Fraud

In making this statement, LPA first suggests these fraud-detection processes would have been effective in identifying PUA fraud had KDOL's implementation of these processes been automated rather than manual. KDOL disagrees.

Recognizing the historic amount of fraud all the states were experiencing, USDOL issued guidance on program integrity and listed mandatory and strongly recommended tools the states should use to combat fraud.[35] KDOL's fraud detection processes complies with

[33] UIPL 24-20, *Temporary Changes to the Federal-State Extended Benefits (EB) Program in Response to the Economic Impacts of the Coronavirus Disease 2019 (COVID-19) Pandemic Emergency*, page 3, *available at* https://wdr.doleta.gov/directives/attach/UIPL/UIPL_24-20.pdf.
[34] K.S.A. 44-710(c)(2)(C).
[35] UIPL 23-20, *Program Integrity for the Unemployment Insurance (UI) Program and the UI Programs Authorized by the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Federal Pandemic Unemployment Compensation (FPUC), Pandemic Unemployment Assistance (PUA), and Pandemic Emergency Unemployment Compensation (PEUC) Programs*, available at https://wdr.doleta.gov/directives/attach/UIPL/UIPL_23-20.pdf.

USDOL's guidance, and if LPA had examined the efficacy of these processes, LPA would have recognized that many of them—even if automated—would not have rapidly and proactively prevented, detected, and investigated fraudulent activity in the PUA program.

- For example, **the new hires cross-matching** is a fraud detection process used to compare new hires in the national and state directory of new hires databases to claimants who continue to file for unemployment insurance benefits after the hire date is submitted by their employers. Basically, the reports from employers of recent hires are cross-matched against claimants to see if claimants may have found new work that they are not reporting on their claims for benefits. However, because PUA benefits are provided mostly to self-employed claimants, their information would not appear in these national and state new hires databases. This means that the federally-recommended fraud detection process of new hires cross-matching, itself, is not an effective tool to identify a majority of PUA fraud.

- Similarly, **the quarterly wage cross-matching** is a process used to compare employer quarterly wage reports to claimants who continue to file for unemployment insurance benefits while receiving wages. Under state law, this report is due at the end of each calendar quarter. This report reveals claimants that are employed by certain employers, not self-employed, which means that the federally-recommended fraud detection process of quarterly wage cross-matching, once again, is not an effective tool to identify a majority of PUA fraud.

- Likewise, **the state information data exchange system (SIDES)** is a database where employers and third party administrators supply information. It is unlikely that self-employed individuals are reporting their job separation and earnings verification information to SIDES. Therefore, the use of this federally-recommended fraud detection process, once again, is not an effective tool to identify a majority of PUA fraud.

In its Audit, LPA also overlooked the difficulties in maintaining program integrity when the law surrounding the PUA program made the program vulnerable to fraud. As described in Section III A. of this response, this issue was brought up and challenged by USDOL-OIG against USDOL-ETA regarding USDOL-ETA's guidance limiting states' authority to substantiate PUA claimant eligibility with documentation. In overlooking this controversial issue between USDOL-OIG and USDOL-ETA, LPA failed to recognize Congress' recent addition of a new eligibility requirement to the PUA program in the CAA that essentially combats fraud by requiring individuals to now submit documentation to substantiate employment or self-employment, or planned commencement of employment or self-employment within a certain period from the date of application to be eligible for PUA benefits.

B. Identity Theft

Second, LPA often mistakenly applies the strategies of fraud detection to the strategies for prevention of imposter claims resulting from identity theft. **This overlooks the reality that many traditional fraud management tools and resources are ineffective in preventing imposter claims resulting from identity theft.** For instance, identify verification tools, such as the Social Security Administration Cross-Match do not prevent or detect imposter claims resulting from identity theft when fraudsters use valid social security numbers and valid names—obtained through large nationwide data breaches like Target, Equifax, or the U.S. Office of Personnel Management—to file for unemployment insurance benefits. Fraudsters using valid names connected with valid social security numbers allows them to bypass the checks put in place through fraud-combatting tools, such as the Social Security Administration Cross-Match.

Unfortunately, the FBI notes that identity theft in unemployment claims is a nationwide problem.[36] The Audit needs to provide the national context for this issue, and the Audit should not suggest that KDOL was "clearly not well prepared to address" the spike in unemployment claims because it suggests some state was. A more apt description is that KDOL was not sufficiently resourced to be in a position to respond to the demands of the new federal programs, which are now acknowledged to have been originally drafted with serious vulnerabilities for exploitation and fraud.

USDOL recognized the need to release additional guidance to assist states in the prevention and detection of **imposter claims from identity theft** when it issued additional guidance on August 31, 2020.[37] This guidance came approximately 5 months after the CARES Act was signed. USDOL reminded states to follow identity verification measures, including data analytics that identified shared characteristics among claims that displayed indicators of suspicious claims activity.

LPA does not make any findings of what preparedness measures KDOL should have taken in addition to its existing tools and KDOL's additional anti-fraud measures (72-hour holds, public assistance, and data analytic tools). As identified by LPA in its Audit, KDOL has implemented data analytics tools by initially reviewing claims for trends of suspicious log-

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[36] *FBI Sees Spike in Fraudulent Unemployment Insurance Claims Filed Using Stolen Identified*, FBI National Press Office, July 6, 2020, *available at* https://www fbi.gov/news/pressrel/press-releases/fbi-sees-spike-in-fraudulent-unemployment-insurance-claims-filed-using-stolen-identities.

[37] UIPL 28-20, *Addressing Fraud in the Unemployment Insurance (UI) System and Providing States with Funding to Assist with Efforts to Prevent and Detect Fraud and Identity Theft and Recover Fraud Overpayments in the Pandemic Unemployment Assistance (PUA) and Pandemic Emergency Unemployment Compensation (PEUC) Programs*, *available at* https://wdr.doleta.gov/directives/attach/UIPL/UIPL_28-20.pdf.

in credentials and duplicated fields to currently using tools that automatically flag claims data through machine learning that identifies new fraud trends.

V. LPA's Audit is rife with additional factual errors.

KDOL points out other areas in which LPA's Audit contains additional factual errors:

- **Figure 1, pp. 3 to 4.** LPA's selected numbers in Figure 1 are misleading, and it is unclear what source LPA used to support their analysis. All the regular unemployment insurance claim numbers do not reflect KDOL's recent revisions submitted to USDOL-ETA. PUA claims began in May 2020, not June 2020. The numbers displayed do not represent monthly totals.

- **Figure 2, pp. 7 to 8.** LPA's analysis from its emailed survey identifies, but fails to highlight, that many of the respondents opined on KDOL's performance in the beginning of the pandemic when not employed by KDOL at the beginning of the pandemic. LPA did not interview any respondents. Rather, LPA relied solely on its one-time responses from newly-hired staff.

- **Last bullet, p. 4.** Contrary to LPA's conclusion that the increase of regular unemployment claims in January 2021 was due solely to fraudsters, KDOL officials have explained that the recent increase is likely related to multiple factors. There is usually a seasonal increase in claims for industries like construction, and manufacturing will sometimes see temporary layoffs around the holidays. There was also an increase in accommodation and food services, which could be related to increased community spread of coronavirus. The education industry, particularly support staff, may have been impacted by the move to remote learning. Although it is still likely that fraudulent claims are included in these files, KDOL has done its best to filter those out, but they can only be removed if they were identified as fraud at the time the claim was filed. The new identity verification process that was implemented at the beginning of February 2021 should help with this issue by identifying fraud before the claim is even filed.

- **Header, p. 4.** LPA should clarify that the fraudsters targeted the new PUA program because of the weaknesses relating to the federal requirements surrounding the PUA application process, which prohibited Kansas from requiring documentation to substantiate employment or self-employment, self-certification to why a claimant was unemployed due to COVID-19, and income.

- **First bullet, p. 5.** LPA should clarify that fraudsters used a large-scale identity theft campaign to target the PUA program in all 50 states, Washington D.C., and United States territories.

- **Last bullet, p. 5.** LPA's description that unemployment funds are disbursed mostly by debit cards is incorrect. Unemployment insurance benefit payments are distributed by prepaid debit card and direct deposit. Since the onset of the pandemic, the majority of claimants have selected to receive their payments via direct deposit. Fraudsters have used both methods to fraudulently receive funds. KDOL is working with federal and state law enforcement agencies and banks on recovering such funds.

VI. KDOL does not choose to raise payroll taxes.

The tax rates and solvency adjustments are defined in K.S.A. 44-710a, and they are a function of the unemployment insurance trust fund's balance. For calendar years 2019 and 2020, during a period of low unemployment, employers' tax rates were decreased by up to 0.5 percentage points when the fund was in a surplus. However, as the pandemic resulted in a near-overnight spike in unemployment, the trust fund diminished in 2020, and KDOL was required per statute and legislation to remove this tax decrease.

The Audit correctly notes that "benefits paid out for the temporary federal unemployment programs do not come from the state's unemployment trust fund." So the Audit should clarify in its subsequent statement that "both legitimate and fraudulent benefits would negatively affect the balance of the state's trust" does not include any legitimate or fraudulent claims in the federal programs like PUA.

VII. LPA misstates the impact that fraudulent claims will have on Kansas employees and employers.

A. Tax Form 1099-G

KDOL has expended considerable time and resources to assist identity theft victims who may have or will receive a tax form 1099-G for unemployment insurance benefits fraudulently obtained using a stolen identity. This includes not only proactively seeking guidance from the Internal Revenue Service (IRS) and the Kansas Department of Revenue (KDOR), but also dedicating significant resources in setting up a processes for claimant communication about the issue and for issuing corrected 1099-G forms and allocating resources dedicated to those processes. In fact, Kansas was one of the first states to raise this issue to the IRS.

Despite continued delays from the IRS in issuing guidance on how KDOL should address 1099-G forms in cases of fraud, KDOL developed criteria to substantially limit the number of 1099-G forms that would be sent to the victims of identity theft. KDOL proactively did an audit of the first 1099-G mailing and identified identity theft victims that should not have been included in the initial mailing. KDOL then sent out corrected 1099-G forms to these identity theft victims,

and the IRS, instructing them that they needed to take no further actions. Those corrected 1099-Gs went out the week beginning February 14, 2021.

Due to the volume of claims and fraudulent attempts in tax year 2020, not all fraudulent 1099-Gs were stopped. However, KDOL did stop many 1099-G forms from going out that KDOL knew were due to identity theft. KDOL also created a process for claimants to dispute inaccurate 1099s, began issuing corrected 1099-Gs, and stood up a call center to answer questions related to the 1099-G process.

It is worth noting that officials in most if not all states have had significant challenges with the 1099-G process because of the tsunami of fraud in the unemployment system in 2020. For example, in Vermont significant errors with the 1099-G process resulted in the state's Department of Labor recalling all 1099-Gs that were sent out in the state.[38] Additionally, every state has had issues with identify theft victims receiving 1099Gs for benefits they did not apply for or receive.

B. LPA misstates Kansas employers' financial responsibility for fraudulent claims.

LPA incorrectly stated the impact that fraudulent unemployment insurance payments will have on employers. KDOL's procedures regarding fraudulent claims and employer charges remain the same. **Employers will not be charged if KDOL identifies a state unemployment insurance claim as fraudulent**. Claims that have been identified as fraudulent, including reported identity theft claims, will not be displayed on any employer's statement. This applies to all employers regardless of their classification.

If an employer identifies any charges that were the result of a fraudulent claim, then they are able to bring these to KDOL's attention so that they can be removed. As such, KDOL has removed all charges from employers it is aware of that are related to fraud.

VIII. KDOL is criminally investigating potentially fraudulent claims.

The Audit says KDOL's Special Investigations unit had not started criminal investigations into the 157,000 potentially fraudulent claims it reported. LPA is incorrect. During the summer of 2020, KDOL referred tens of thousands of potentially fraudulent accounts to the USDOL-OIG for comparison with other similar data collected from other states labor departments. This included IP addresses/passwords and email addresses. The IP addresses spanned throughout the south and southeast United States. In addition to the USDOL-OIG, KDOL has referred potentially fraudulent claims to the FBI and the Secret Service and

[38] *Labor Department issues recall of all 1099s because of mailing error,* Vermont Business Magazine, Feb. 2, 2021, 6:39pm, *available at* https://vermontbiz.com/news/2021/february/01/labor-department-issues-recall-all-1099s-because-mailing-error.

continues to do so. Federal law strongly encourages states to work with federal law enforcement, including USDOL-OIG because of jurisdictional issues.

LPA also failed to recognize the distinction between civil fraud and crimes associated with identity theft and unlawfully receiving unemployment insurance benefits. Not every potentially fraudulent claim warrants criminal prosecution. Identifying select cases for criminal investigation and prosecution is a matter involving evaluation by the KDOL law enforcement officers as well as input from prosecuting authorities.

The Audit does not mention that KDOL has expended considerable time and resources responding to two large subpoenas from USDOL-OIG, for the stated purpose of collecting data from each state on claims in the various programs in an effort to detect nationwide fraud patterns and schemes. This is in addition to a data-sharing Memorandum of Agreement KDOL entered into with USDOL-OIG at the beginning of the pandemic to share data with them to combat fraud. KDOL has also been working the FBI on similar data-sharing arrangements.

Thank you again for your staff's work on this report.

Respectfully,

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Appendix A – Cited References

This appendix lists the major publications we relied on for this report.

1. Kansas Department of Labor Weekly Unemployment Claims Reports (December, 2020). Kansas Department of Labor.

2. COVID-19: States Cite Vulnerabilities in Detecting Fraud While Complying with the CARES ACT UI Program Self-Certification Requirement (October 2020.). The U.S. Department of Labor Office of the Inspector General.

KANSAS LEGISLATIVE
DIVISION *of*
POST AUDIT

A Performance Audit Presented to the Legislative Post Audit Committee

Evaluating the Kansas Department of Labor's Response to COVID-19 Unemployment Claims (Part 2)

August 2021

Report Number: R-21-011

Introduction

The Legislative Post Audit Committee requested this audit at its September 2, 2020 committee meeting.

Objectives, Scope, & Methodology

The audit included three questions. For reporting purposes, we divided those questions into two separate audit reports. This audit report is the second and final report and answers the following question:

1. What factors caused delays in the Kansas Department of Labor's unemployment claims processing during the COVID-19 pandemic?

To answer this question, we spoke with officials from the Kansas Department of Labor (KDOL) and reviewed KDOL staffing, incident, and call center reports. We reviewed relevant reports from the U.S. Department of Labor's Office of the Inspector General. We attempted to use U.S. Department of Labor unemployment claims data to compare processing times in Kansas to other states. However, the data contained significant errors so we couldn't use it. However, we did contact officials from the Idaho, Nebraska, and Oklahoma labor departments for comparative information. Our work primarily focused on 2020 and early 2021, during the COVID-19 pandemic.

This audit also includes an updated unemployment insurance fraud estimate. In February 2021 we released the first part of this audit. In that audit we reported a preliminary estimate of how much fraud could have occurred in Kansas in 2020. In this report, we used KDOL claims data from January 2020 through February 2021 to provide a more precise estimate. We used KDOL claims data and a neural network computer model for our estimate. It is important to note that about 9,000 claims applications were missing from KDOL's data used for our estimate. However, given that there were 1.08 million claims applications in total, the missing applications should have little effect on our overall conclusions. We also found inconsistencies and potential errors with the date payments were made in KDOL's claims data. This did not affect our overall fraud estimate but could affect the distribution of payments by month. Finally, we were unable to report on KDOL's detailed staffing numbers because we did not have a detailed report of staffing allocation.

Important Disclosures

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit

objectives. Overall, we believe the evidence obtained provides a reasonable basis for our findings and conclusions based on those audit objectives.

Audit standards require us to report our work on internal controls relevant to our audit objectives. In this audit we reviewed KDOL internal controls to ensure claims are processed timely and accurately. KDOL followed U.S. Department of Labor accuracy and timeliness quality control measures. The U.S. Department of Labor allowed states to suspend these measures early in the pandemic. As a result, parts of KDOL's quality control process were temporarily suspended in 2020.

Finally, several members of this audit team were either victims of unemployment fraud, identity theft related to unemployment claims, or knew someone that was a victim. We concluded these events did not constitute an actual impairment to the team's independence or ability to objectively complete this audit.

More specific details about the scope of our work and the methods we used are included throughout the report as appropriate.

Our audit reports and podcasts are available on our website (www.kslpa.org).

Rapid program changes, historically high unemployment claims, and an ill-equipped computer processing system created delays in claims processing during the pandemic in Kansas.

Unemployment Insurance Program Background

The Kansas Department of Labor (KDOL) administers the regular unemployment insurance program and gives financial aid to unemployed individuals.

- The regular unemployment insurance program is a joint program between federal and state governments. Although there are broad federal guidelines over the program, states establish their own criteria for who is eligible for regular unemployment insurance. States also decide the amount and duration of regular unemployment benefits.

- In Kansas, individuals must meet several criteria to qualify for regular unemployment benefits. For example, individuals must have worked for enough time and left work through no fault of their own (such as a

medical emergency or layoffs, etc.).

- Generally, Kansas employers are assessed a tax that funds the state's unemployment insurance trust fund. That fund pays weekly benefits to unemployed individuals for 16 to 26 weeks depending on the state's unemployment rates.

- Kansas employees do not contribute any money to the trust fund.

In 2020, the federal government created several temporary unemployment insurance programs to help individuals who lost their jobs due to COVID-19.

- The COVID-19 pandemic significantly increased the unemployment rate nationally and in Kansas. Before the pandemic, the national unemployment rate was about 4% in January 2020 (about 3% in Kansas). By April 2020, the national unemployment rate rose to about 15% (about 12% in Kansas).

- In March 2020, Congress passed the CARES Act to help individuals the pandemic negatively affected. The act included funding for new unemployment insurance programs.

- The new programs differed from regular unemployment insurance in a few ways. For example, the new programs were entirely federally funded. Additionally, all the new programs were temporary and have either expired or are scheduled to expire in September 2021.

- The new programs expanded unemployment benefits to include more people who lost their jobs due to COVID-19. For example,

    - The Pandemic Unemployment Assistance (PUA) program extended benefits to several new classes of workers. This included the self-employed (e.g., independent contractors) and gig workers like Uber drivers. Under this program, individuals not eligible for regular unemployment insurance could receive up to about $500 per week for 39 weeks (a maximum of about $19,500) under the terms of the original CARES Act in 2020.

    - The Federal Pandemic Unemployment Compensation (FPUC) program also gave an extra $600 per week to anyone already receiving unemployment benefits, for a period from late March through late July 2020. FPUC was renewed at a level of $300 per week in late December 2020 and expires in September 2021. FPUC was temporarily replaced by the Lost Wages Assistance (LWA) program in 2020. LWA is a disaster recovery fund administered by the Federal Emergency Management Agency, but it was temporarily used in place of FPUC during the pandemic.

- Under the terms of the original CARES Act, the Pandemic Emergency Unemployment Compensation (PEUC) program provided up to 13 weeks of additional unemployment benefits to claimants once they exhausted all other unemployment benefits.

- Benefits paid out for the temporary federal unemployment programs do not come from a state's unemployment trust fund. They are paid with federal funds.

Kansas and other states across the U.S. experienced claims processing delays during the pandemic.

- To receive benefits, individuals must first apply for unemployment insurance. Once submitted, a claim goes through several steps. Those include eligibility determination, calculating benefits, and submitting payment. It is important this processing happens timely. Delays in any part of this process could delay payment to individuals needing assistance.

- High unemployment rates contributed to delays in claims processing in Kansas and nationally. As mentioned above, by April 2020, the national unemployment rate was about 15% (about 12% in Kansas). That's higher than any other time in recent history. For context, at their highest, unemployment rates were about 10% nationally and about 7% in Kansas during the Great Recession in 2009 and 2010.

    - In 2020, high unemployment rates meant many people were suddenly applying for benefits at once. Typically, unemployment rates rise over a few months, giving state labor departments time to respond to the increase in claims. However, the immediacy of the pandemic caused unemployment rates to surge very quickly. This put a tremendous amount of strain on states' unemployment processing systems, creating errors and processing delays.

    - In Kansas, there were several reports of individuals waiting several weeks or months to receive unemployment benefits. KDOL data showed individuals called its customer service call center about 12.5 million times in April 2020, sometimes calling multiple times a day. These calls significantly outnumbered the 33 full-trained customer service representatives KDOL reported at that time. This suggests many people needed assistance in applying for or receiving unemployment benefits. Federal and media reports during the pandemic showed these delays also occurred nationally during the pandemic.

- We were unable to compare Kansas' claims processing times to other states. We attempted to use federal unemployment claims data to compare Kansas to other states. However, the federal data contained significant errors that prevented us from using it. Additionally, that data only measured time to payment after an application was submitted and approved. It did not capture any delays in getting an application submitted.

- This audit focused on identifying the main causes for Kansas' delays in claims processing. We worked with KDOL officials to understand what caused these delays. As discussed below, the main issues were the outdated computer system and its upkeep, as well as call center staffing issues.

Implementation and Computer System Issues

KDOL relied on an outdated, piecemeal, and poorly maintained unemployment computer system during the pandemic.

- States use large, powerful computer systems to process unemployment claims. Among other things, these systems hold eligibility rules and historic claims data. Generally, when someone applies for benefits, their application runs through these systems to determine eligibility, benefit amount, and process payment.

- Kansas' unemployment computer system was created in the early 1970's and was centered around a mainframe computer. The mainframe operated on an older, lesser-used coding language. Over the years, the outdated coding language created challenges for KDOL. For example, there are few IT staff available that are still familiar with the mainframe's coding language. This makes it difficult to maintain and update the system. Additionally, the outdated code requires KDOL staff to navigate between several screens to process a single claim. In some cases, staff are unable to use a mouse to enter or retrieve information. In these cases, all information must be hard coded into the system, taking time and special training.

- Over the years, KDOL had to add modern programs around the outdated mainframe, creating a piecemeal system. Increasingly, the mainframe had to interact with programs that operated on modern computer code. For example, the state's online application site operates on modern code. However, that site must communicate with the mainframe system. As a solution, KDOL installed an intermediate program called Rocket that allows the two systems to communicate. All programs, new and old, must work in unison to process claims. Periods of high claims volume stressed the connection between these programs, which led to system issues and delays.

- Historically, KDOL did not properly document changes to the computer code, creating a risk for system error. Unemployment systems run on a significant amount of underlying computer code. Periodically, that code needs revision. When this happens, programmers should follow a uniform and well documented process to maintain system integrity. Poorly organized documentation and coding increase the risk for system error. That's because programmers can't be sure what changes were made, and how additional changes will impact the existing code. According to KDOL, staff over the years did not follow these best practices, resulting in a disorganized coding structure. Because of staff turnover and poor practices, current programmers use the system without full knowledge of how the code functions. According to KDOL, staff begun documenting changes to the coding structure during the pandemic.

Frequent changes to the state's unemployment computer system during the pandemic created system errors and processing delays.

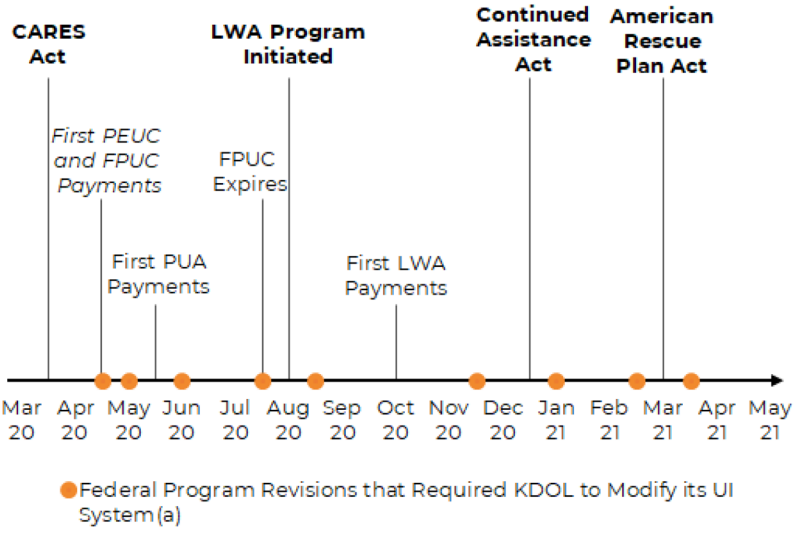
- The pandemic resulted in an extremely unique challenge for KDOL. Under normal conditions, KDOL does not have to make many major edits or changes to its unemployment computer system. When they did, the changes didn't need to happen immediately, giving them more of an opportunity to test the changes before deployment. When the pandemic began, KDOL had to quickly build and deploy several changes to its unemployment computer system. The significant changes and hurried pace, combined with historically high unemployment claims and an ill-equipped computer processing system put KDOL at extremely high-risk for processing delays and errors.

- The pandemic spurred lots of sudden changes at the state and federal level. Government officials were trying to quickly implement new programs to help address high unemployment caused by the pandemic.

    - KDOL could not begin processing claims for the temporary federal unemployment programs until it received and implemented changes from the federal government. Federal documents showed it took between one and two weeks for the U.S. Department of Labor to issue detailed guidance to states on how to implement the federal pandemic programs. Once KDOL had the guidance, they began making necessary changes to their systems. For example, KDOL officials told us they had to build an entirely new program to administer the new PUA program, which took time. KDOL officials told us getting the new PUA system to effectively communicate with the outdated mainframe was extremely challenging and took a significant amount of resources.

- KDOL also had to respond to additional program revisions from the U.S. DOL throughout the pandemic. **Figure 1** shows some of the key program revisions during the pandemic. As the figure shows, the U.S. DOL issued several program revisions during the pandemic. These revisions required KDOL to review new guidance, edit the underlying code, and test changes before deployment.

Figure 1: KDOL had to modify its unemployment system several times during the pandemic, which contributed to claims processing delays.



Programs:
FPUC: Federal Pandemic Unemployment Compensation
PUA: Pandemic Unemployment Assistance
PEUC: Pandemic Emergency Unemployment Compensation
LWA: Lost Wages Assistance

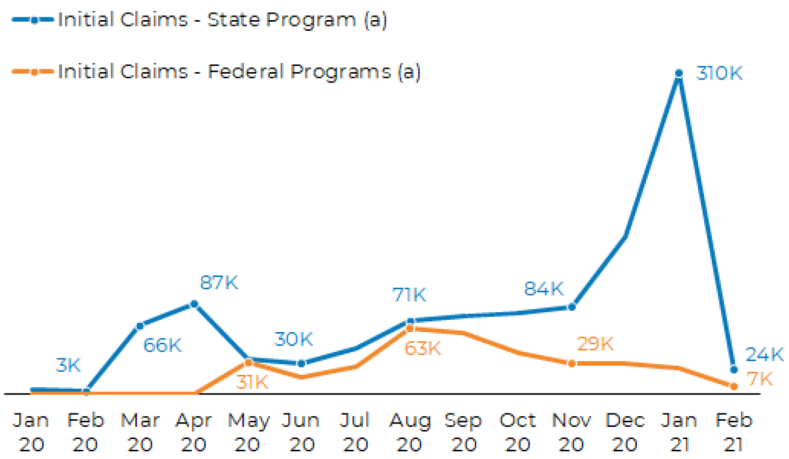
Source: KDOL officials and U.S. Department of Labor Guidance
(a)Does not include all federal changes made during the pandemic.

- Changes to the state's coding structure to implement new federal programs and requirements created errors and delays. These changes caused problems because the state's unemployment system operated on a disorganized coding structure. Despite an internal testing process, KDOL staff were unable to prevent all changes from creating system errors. This led to several claims processing issues. For example:
    - A coding issue made it appear that several claimants were no longer eligible for benefits when they still had multiple weeks of eligibility remaining. In this case, those claimants were denied payments because of the error.
    - Other coding issues denied claimants that were eligible for pandemic related programs. KDOL officials told us these coding errors mostly occurred as claimants were transitioning between unemployment programs.
- Coding issues are not easy to identify or fix, which creates payment delays for claimants. In some cases, KDOL learned of these issues after the fact from customer service representatives taking calls from the public. Additionally, it takes specialized claims maintenance staff to review the claims and identify the issue. KDOL told us they do not have many of these specialists because it takes years of experience to gain the knowledge necessary for that position. Once identified, IT staff must also find where in the code the issue originated to fix it. These issues take time to fix, during which claimants may go without benefits.

During the pandemic, a surge in valid and fraudulent claims strained the state's outdated and piecemeal unemployment system, leading to system failures and claim delays.

- Unemployment claims increased dramatically during the pandemic. **Figure 2** shows claims filed from January 2020 through February 2021. As the figure shows, claims for the state's regular unemployment program increased from 3,000 initial claims in February 2020 to about 66,000 claims at the end of March. That's roughly a 22-fold increase in one month.

Figure 2: Initial claims increased significantly during the pandemic, especially before identify verification was established in February 2021.



Source: LPA Analysis of KDOL data from 2020-2021 (audited)
(a) All claims filed but not necessarily paid, including duplicate claims made in error or with fraudulent intent.

Kansas Legislative Division of Post Audit

- High claims volumes strained the state's outdated and piecemeal system, resulting in system failures and delays. As mentioned above, KDOL's unemployment computer system consisted of modern and outdated programs. KDOL officials told us the outdated mainframe had issues communicating with modern systems during high-volume times. For example, the program responsible for connecting the mainframe to the modern online application site crashed periodically during the pandemic. Periods of high-claims volume contributed to these crashes. Claimants could not file online claims during this time.

- Fraudsters put additional strain on the state's system. Fraudsters may be able to automate their attacks against states' systems. In doing so, they can overwhelm state systems with a significant number of claims. This puts more stress on already strained systems. As part of this audit, we estimated about 630,000 of the 1.08 million unique claims applications (59%) from January 2020 to February 2021 could have been fraudulent attempts. Our full fraud estimate is discussed in more

detail below, but it's important to note that not all 630,000 potentially fraudulent claims were paid.

Staffing and Call Center Issues

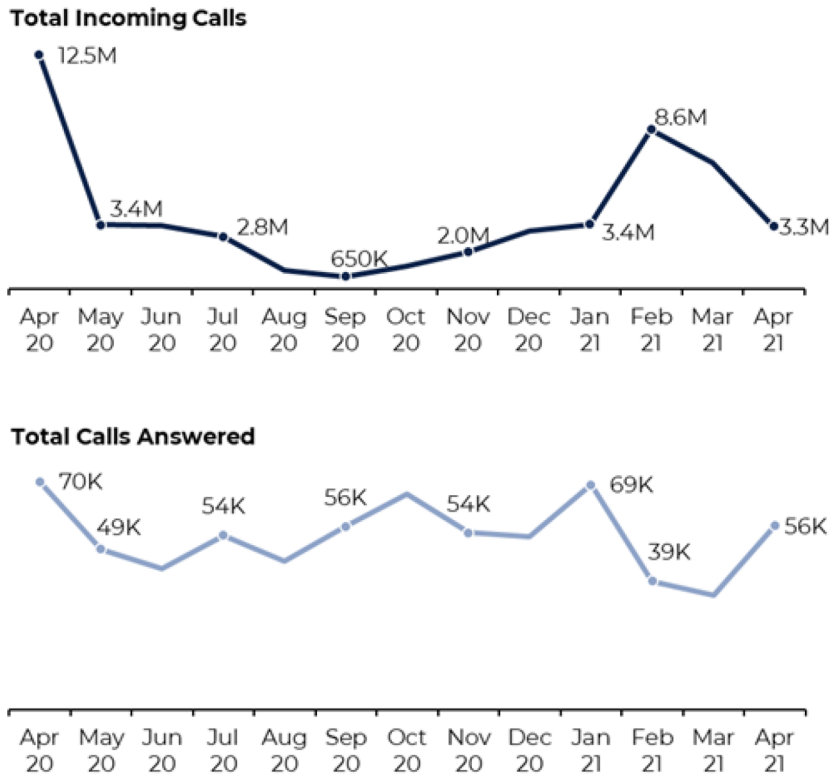
Prior to the pandemic, KDOL had few staff to answer calls because of low unemployment and low federal funding levels.

- KDOL customer service positions are federally funded. Federal funding is based on prior year unemployment program expenditures. Generally, funding increases and decreases with unemployment rates as the need for unemployment insurance changes. Kansas's unemployment rate steadily declined from 2010 to 2019, reaching 3% in 2019; the lowest level since 1979. Over the same time, federal funding for Kansas's unemployment program also declined.

- KDOL reported that because unemployment program funding was low, they only had 33 customer service representatives to answer phones in April 2020.

- Total calls significantly outnumbered available staff at the beginning of the pandemic. **Figure 3** shows the total number of incoming calls and calls answered during the pandemic. As the figure shows, KDOL reported a total of 12.5 million incoming calls in April 2020. That's compared to just 33 fully trained customer service representatives. During this time individuals called multiple times a day because they couldn't reach a customer service representative. This contributed to the 12.5 million calls in April 2020.

Figure 3: The total number of calls answered did not improve significantly during the pandemic.



Source: LPA Analysis of KDOL data from 2020-2021 (unaudited)

- According to KDOL, up to 120 staff from other divisions and agencies helped answer calls during the spring of 2020. In total, KDOL reported answering only about 70,000 of the 12.5 million calls (about 1%) in April 2020.

Despite additional staff, the number of calls answered did not improve

significantly during the pandemic, potentially leading to additional claims delays.

- Not being able to talk to a customer service representative likely caused additional delays in claimants receiving unemployment benefits. Claimants call KDOL for several reasons. In some cases, they're calling because they need help applying for benefits or to resolve problems with an existing claim. As discussed above, many claimants called KDOL during the pandemic, sometimes multiple times a day, without being able to reach a customer service representative. Not being able to reach a customer service representative likely resulted in additional delays for people needing assistance with their claim.

- We were unable to compare detailed staffing trends to calls answered during the pandemic because of a lack of data. Beginning in July 2020, KDOL contracted with Accenture to provide additional surge staff during the pandemic. According to KDOL, Accenture staff helped answer phone calls, made out-bound calls, and helped with other administrative duties. KDOL gave us some staffing data, but we could not readily identify how many Accenture staff were answering phones on a given day or month. As a result, we were unable to compare detailed staffing levels to calls answered. Generally, KDOL reported adding up to about 500 temporary Accenture surge staff over the course of the pandemic. However, we could not verify those numbers.

- Despite added surge staff, the number of answered calls did not significantly increase during the pandemic. As **Figure 3** shows, there was no clear increase in calls answered during the pandemic. That's despite KDOL adding additional Accenture surge staff. KDOL suggested call complexity increased during the pandemic. It is possible more complex calls increased call times. Longer calls could have resulted in fewer calls answered per day. KDOL also reiterated that not all Accenture surge staff were answering phones, which could have limited the number of calls answered per day.

Modernization Efforts

States with modern unemployment computer systems appeared better equipped to handle the challenges of the pandemic.

- According to a National Association of State Workforces report, 26 states (including Kansas) used outdated unemployment computer systems as of February 2021. Generally, an outdated system means it operates on an antiquated mainframe computer system. Like Kansas, states with outdated systems may depend on a combination of outdated and modern programs, resulting in a piecemeal system. The remaining 24 states upgraded to modern systems. Generally, modern

systems do not rely on old mainframe computers and are built using modern coding languages. As a result, the necessary programs function more cohesively than the outdated, piecemeal systems.

- States with outdated unemployment systems appeared to encounter similar challenges as Kansas during the pandemic. An October 2020 report from the U.S. Department of Labor said outdated mainframe systems had compatibility issues with the new programs (like PUA). An April 2020 U.S. Department of Labor report found these compatibility issues likely resulted in delays processing claims during the pandemic.

- States with modern unemployment systems appeared better equipped to handle the challenges of the pandemic. A May 2021 U.S. Department of Labor report found that on average, states with modern systems implemented the PUA and PEUC programs a week to two weeks before other states. This is likely because it was easier to build the necessary pieces and make the needed changes to accommodate the new federal requirements. We also spoke to officials with the Nebraska and Idaho state labor departments. Officials confirmed their modern systems gave them more flexibility to quickly integrate new programs (like PUA) during the pandemic. Better integration also means modern systems are more stable and able to handle higher claims volume.

- We were unable to compare Kansas' claims processing times to other states. We attempted to use federal unemployment claims data to determine how Kansas' processing times compared to other states. However, the federal data contained significant errors that prevented us from using it. This included duplicated claims totals and inconsistencies between states. Additionally, that data only measured time to payment after an application was submitted and approved. It did not capture any delays in getting an application submitted.

KDOL is in the process of modernizing its unemployment computer system.

- From 2005 to 2011 KDOL made efforts to modernize its unemployment system. During this time, KDOL made improvements to its system, but never fully modernized it. For example, KDOL added a new case management system and a new online application site. However, KDOL did not replace the outdated mainframe system before the modernization process was stopped in 2011. As a result, KDOL still uses a piecemeal system, centered around an outdated mainframe system. Current KDOL officials did not know why the project was stopped or why it wasn't restarted. They suggested a lack of dedicated funding could have been a contributing factor.

- As of July 2021, KDOL had restarted the process of modernizing its

unemployment computer system. Officials told us before the pandemic they were gathering information from other states on modern unemployment systems. However, the pandemic paused their efforts. In March 2021, KDOL finalized a project modernization plan. Generally, the plan would replace KDOL's current piecemeal and outdated system with a more self-contained system. The new system would also operate on modern computer code. In April 2021, KDOL posted a request for proposal for its modernization project.

- Passed in 2021, Kansas House Bill 2196 included several provisions for KDOL's modernization project. The bill required that the system be in place by December 31, 2022. However, extensions to the deadline can be granted. The governor's fiscal year 2022 budget report proposed investing about $37.5 million on the modernization project. The report proposed those funds come from federal and special revenue funds between fiscal years 2021 and 2022.

- A new, modern system should be better suited to handle the unique challenges of a pandemic, recession, or other major unemployment events. Generally, a modern system can house all the necessary components to process claims within one integrated system. This reduces the risk for system failure during periods of high claims volume. The new system will also operate on modern code, making it easier to quickly add new programs or requirements should the need arise. Additionally, KDOL will have an opportunity to fix its disorganized coding structure as it transitions away from the mainframe computer code. It's likely a modern system will also eliminate the need for staff to navigate between multiple screens and hard code information when processing a claim. A modern system should also improve KDOL's ability to run various metrics and reports on how its system is operating.

Unemployment Fraud Update

In February 2021 we released a preliminary fraud estimate with the intent of releasing an updated estimate in this report.

- Fraud is a legal term used to describe specific criminal acts. Ultimately, only courts can decide whether fraud occurred. In this audit, we do not use fraud to refer to any legal determination. Rather, we use fraud to describe claims that displayed suspicious characteristics indicative of imposter fraud.

- Imposter fraud occurs when a fraudster uses stolen personal information to apply for unemployment benefits in other people's names. This normally occurs in large quantities. We focused on imposter fraud because it appeared to be the most widespread fraud during the pandemic. Other types of improper payments or fraud,

such as someone deliberately misrepresenting their employment information to try to increase their benefit amount, were not specifically accounted for in our fraud methodology. KDOL told us they also saw an increase in these other types of fraud during the pandemic.

- In February 2021 we released a preliminary fraud estimate showing that about $600 million in unemployment fraud could have occurred in Kansas in calendar year 2020. This estimate was based on three key numbers: The number of claims KDOL reported stopping as potentially fraud from March 2020 through November 2020 (157,000), the total number of claims filed that during that time (650,000), and the total benefit amount paid ($2.6 billion) in 2020.

- As of February 2021, there was little information on how much fraud could have occurred in Kansas during the pandemic. We thought it prudent to release a preliminary estimate while we finished our detailed fraud analysis using KDOL's claims data. Since then, we completed our detailed fraud estimate. That work is described below.

For this audit, we used an advanced computer model to create a more precise estimate of unemployment fraud in Kansas.

- We used a neural network to estimate unemployment fraud in Kansas. A neural network is a form of machine learning used to replicate human decision making. This helps automate and expedite time-consuming tasks.

- Neural networks must first be trained to replicate human decisions. To accomplish this, we manually reviewed a random sample of 1,000 unique claims applications (out of about 737,000) for fraud. We looked for 26 things that can be indicators of fraud. For example, we looked for:

    - Duplicated passwords or e-mail address. We counted the number of times the same password was used by different claimants. We reviewed password complexity and duplicate counts to determine the likelihood of fraud. We estimate it's extremely unlikely (0.006%) that a six-character password, with random characters, would have at least one duplicate by chance out of 1 million claims. We also counted the number of times the same or similar e-mail address (within 2 characters) was used across claimants.

    - The accuracy of state employee application information. Some fraudsters targeted state employees because more of their information is publicly available. We cross-checked social security numbers in the claims data against Kansas state

employee data to identify state employees. We then confirmed the accuracy of the names and dates of birth for those claims. Mismatches suggested imposter fraud.

- We were unable to review checking account numbers, bank routing numbers, or IP addresses. Although this data exists in KDOL's system, successfully querying that data would have taken additional time, delaying the release of the audit.

- We used the results of our sample to train the neural network to identify fraud in all remaining claims. In total, we identified possible fraud in 575 of 1,000 (58%) claims sampled. We trained the model using 700 claims randomly selected from our sample of 1,000. We used the remaining 300 claims in the sample to test and validate the network's accuracy. Once fully trained, we ran the neural network against all 1.08 million unemployment claims filed from January 2020 to February 2021. **Appendix B** has more information on our neural network methodology.

We estimate about $700 million in potentially fraudulent payments could have been made in Kansas during the pandemic.

- In total, Kansas paid about $2.8 billion in unemployment benefits from January 2020 through February 2021. Of that total, we estimate about $700 million (about 25%) could have been fraudulent.

- Our $700 million fraud estimate combined the results of our neural network with claims KDOL already flagged as potentially fraud. In its data, KDOL already flagged a significant number of fraudulent payments made during the pandemic. We used our neural network to identify additional fraud KDOL may have missed. Ultimately, we combined the results of KDOL's work and our neural network to arrive at our $700 million estimate. **Figure 4** summarizes the components of our estimate. As the figure shows:

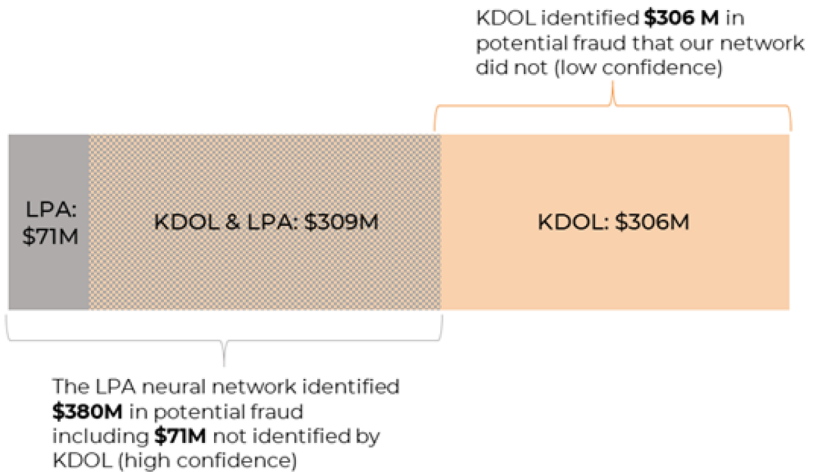
  - LPA identified about $71 million in potentially fraudulent payments that KDOL did not (high confidence). This only included claims our model was at least 95% confident were fraud. For example, one claim we reviewed had the exact same password (9 characters, upper and lower cases, contained a special character and numbers), e-mail address, and residential address as 20 other claimants. In this case, it was very likely one person applied for benefits multiple times using other people's information. Given the network's confidence, we also had high confidence of fraud in these cases.

  - KDOL and LPA had consensus on $309 million in potentially

fraudulent payments (high confidence). Both KDOL and our neural network flagged these payments as potential fraud, giving us high confidence of fraud in these cases.

- KDOL identified about $306 million in potentially fraudulent payments that our model did not (low confidence). These are claims identified by KDOL as fraud, but not by our neural network. This could be for two reasons. First, KDOL officials told us they incorrectly flagged many legitimate claims as fraud during the pandemic. Further, KDOL's access to other fraud detection methods could also explain why our network didn't flag some of these payments. However, because our neural network did not flag these payments as fraud, KDOL officials were concerned much of this $306 million were legitimate claims they incorrectly flagged as fraud. Ultimately, there was no reliable way to determine how many of these payments were legitimate. As such, we included this with the other limitations to our estimate below.

Figure 4: The $700 million fraud estimate is based on three components.



Source: LPA Analysis of KDOL data from 2020-2021 (audited)

- Our final fraud estimate is subject to a few key assumptions and limitations.
    - It is unlikely all the claims flagged in this estimate will end up being fraud. This would overstate our estimate. As noted above, KDOL flagged legitimate claims as fraud during the pandemic. These cases would overstate our estimate.
    - It is possible fraud occurred that neither our model nor KDOL identified. This would understate our estimate.
    - We were unable to use KDOL's full 1099-G data as part of our estimate. A 1099-G form notifies individuals of taxes owed on state unemployment benefits. Some victims of fraud received these forms for benefits they never received. KDOL encouraged these individuals to contact them so they could amend their tax form. KDOL compiled a list of fraudulent claims based on the public's feedback on 1099-G forms. This could have identified additional fraudulent claims not identified by KDOL or our model. We attempted to review that data to supplement our fraud estimate. However, time restraints and data issues prevented a full analysis. The data we used for our estimate contained some, but not all claims flagged as fraud from KDOL's 1099-G review. As a result, it is possible additional fraud exists that was not captured in our estimate. This would understate our estimate.
    - KDOL's claims data was missing 9,000 application records that received payment. We could not review those claims to determine fraud. This could understate our estimate. However, given there were 1.08 million claims, these missing applications likely have a minimal effect on our estimate.

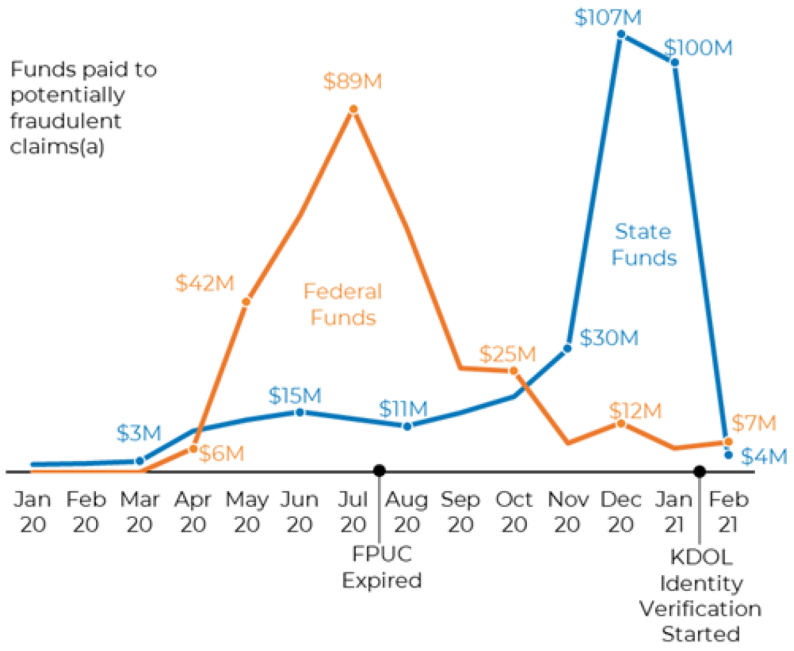
Of the estimated $700 million in fraudulent benefit payments, about half ($343 million) came from federal funds and half ($344 million) from state funds.

- Of the roughly $2.8 billion in benefits paid from January 2020 through February 2021 (both fraudulent and valid), about $1.7 billion came from federal funds for temporary pandemic programs. The other $1.1 billion came from state funds for the state's regular unemployment insurance program.
- Of the estimated $700 million in fraudulent benefit payments, about half came from federal funds and half from state funds.
    - We estimated about $343 million in fraud from federal funds, mostly occurring in the spring and summer of 2020. **Figure**

5 shows the distribution of fraudulent payments during the pandemic, by state and federal funding source. As the figure shows, most of the fraudulent payments from federal programs occurred in the spring and summer of 2020. These fraudulent payments peaked in July 2020, before declining. This coincides with the first iteration of the FPUC program expiring in July 2020. As federal programs, these fraudulent payments did not affect the state's unemployment trust fund.

- We estimated about $344 million in fraud from state funds, mostly occurring at the end of 2020. As **Figure 5** shows, most of the fraud to the state's regular unemployment program occurred in late 2020, peaking at about $107 million in December 2020. These fraudulent payments did impact the state's unemployment trust fund. The balance of the trust fund declined by about $711 million during this time. That means fraudulent payments could have accounted for about 48% of the decline. Legitimate payments likely accounted for the rest of the decline.

Figure 5: Fraudsters attacked the federal unemployment programs before attacking the state's program in late 2020.



Source: LPA Analysis of KDOL data from 2020-2021 (audited)
(a) Payment date errors in KDOL's claims data could affect the distribution of fraudulent payments.

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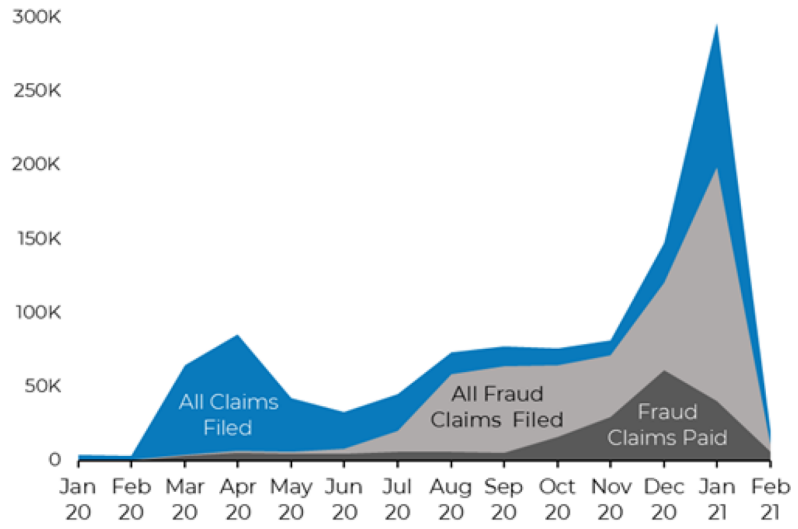
- Fraudulent payments declined significantly in February 2021, likely because of KDOL's new identity verification process. In February 2021, KDOL implemented a new identity verification system to help combat cases of imposter fraud. Under the new system, all claimants must answer a series of questions that only they should know before they are allowed to apply for benefits. As **Figure 5** shows, fraudulent payments from state funds decreased from about $100 million in January 2021 to $4 million in February 2021, after the identify verification system was implemented. That's a decrease of about 96%.

- Passed in 2021, Kansas House Bill 2196 included provisions to replenish the state's unemployment trust fund with emergency federal pandemic funding. That included an initial payment of $250 million in 2021. Additional payments may be made pending the results of a future contracted audit required by the bill. Among other things, the audit will estimate how much fraud occurred in Kansas during the pandemic.

We estimate about $2 billion in potentially fraudulent payments were <u>prevented</u> in Kansas during the pandemic.

- There were a significant number of fraudulent attempts in Kansas that were never paid. **Figure 6** compares total claims filed, fraudulent attempts filed, and fraudulent attempts paid during the pandemic. As the figure shows, a little more than half of claims filed during the pandemic were cases of attempted imposter fraud. However, as the figure also shows, not all these attempts were paid. We estimate about 30% of fraudulent attempts were paid, resulting in the estimated $700 million in fraud payments reported above. The other claims were likely stopped by KDOL fraud staff, reported by the public, or deemed ineligible for payment.

Figure 6: Our results showed that fraudulent claims comprised a large proportion of total claims filed, but not all fraudulent claims filed were paid(a).



Source: LPA Analysis of KDOL data from 2020-2021 (audited)
(a)Payment date errors in KDOL's claims data could affect the distribution of fraudulent claims paid

- We estimate about $2 billion in potentially fraudulent payments were prevented. It is difficult to know with certainty the value of the fraudulent attempts that were never paid. That's because we can't be sure which programs the fraudsters would have been eligible for, their weekly payment amounts, or how long they'd receive benefits. However, we applied the average unemployment benefit amount to the number of fraud attempts prevented to estimate this amount.

KDOL officials reported working with federal organizations and banks to identify and recover fraudulent payments, but no estimate on recovered funds was available.

- KDOL officials told us that the state's two banks, Bank of America and U.S. Bank, are the last line of defense in identifying and preventing

potentially fraudulent payments. The banks will suspend payment on accounts they consider suspicious. In these cases, payments are held by the bank until it can be returned to the state. KDOL reported about $7.4 million in potentially fraudulent payments that could be recouped from Bank of America. KDOL officials told us their initial review confirmed $3.9 million of that total as fraudulent, but still need to review the remaining $3.5 million. KDOL officials told us U.S. Bank did not have an estimate of fraudulent payment stopped at the time of this audit.

- KDOL officials told us they continue to work with federal investigators and law enforcement to investigate potentially fraudulent claims. A recent report from the U.S. Department of Labor estimated that nationally, about $87 billion in unemployment benefits could have been made improperly, with a significant portion attributed to fraud. To date, few cases, in Kansas or nationally, appear to have been prosecuted.

Conclusion

We did not make any additional conclusions for this audit.

Recommendations

We did not make any recommendations for this audit because the Kansas Department of Labor is already in the process of modernizing its unemployment insurance system.

Agency Response

On August 6, 2021 we provided the draft audit report to the Kansas Department of Labor (KDOL). We made some minor changes based on the department's feedback.

KDOL's response is included below. In its response KDOL suggested $306 million of claims KDOL flagged as fraud should not be included in our $700 million fraud estimate. The $306 million were claims KDOL flagged as fraud that our neural network did not detect. In its response, KDOL officials were concerned much of this $306 million may have been incorrectly flagged as fraud by KDOL. Ultimately, we did not remove the $306 million from our estimate. That's for two main reasons.

- KDOL's fraud detection process likely identified fraudulent claims that our neural network didn't. Our neural network was only trained to identify wide-scale imposter fraud. KDOL's process also focused on multiple types of fraud, like individual fraud and false employer schemes. Further, KDOL had access to additional data (bank account,

routing numbers, and I.P. addresses), different fraud detection tools, and relied on the public to report fraud.

- There was no way to verify KDOL's assertion that a significant amount of the $306 million it flagged as fraud were legitimate claims. This will require additional investigation by KDOL. We acknowledge it is possible our estimate included some legitimate claims that were incorrectly flagged as fraud by KDOL. This would overstate our estimate, which we noted in our report.

Finally, although some of the $306 million KDOL flagged as fraud may have been legitimate (which would overstate our estimate), it's also likely that neither we nor KDOL have identified all fraudulent claims (which would understate our estimate). Consequently, we think our $700 million estimate is very reasonable.

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Laura Kelly, Governor

August 23, 2021

CONFIDENTIAL



Matt Etzel
Legislative Division of Post Audit
800 SW Jackson St., Suite 1200
Topeka, KS 66612

RE: Response to Part 2 of LPA's Evaluation of the Kansas Department of Labor's Response to COVID-19 Unemployment Claims

Dear Mr. Etzel:

The Kansas Department of Labor (KDOL) recognizes the time the Legislative Division of Post Audit (LPA) spent understanding and analyzing the unemployment insurance (UI) and Lost Wages Assistance (LWA) benefit programs (collectively "benefit programs") in the context of the COVID-19 pandemic. The agency largely agrees with points LPA has raised about the difficulties KDOL has faced by implementing and in some cases creating these programs with extremely antiquated technology, ever-changing statutory requirements, federal guidance, and inadequate staffing, resulting in part from low federal funding that at the time the pandemic began was tied to Kansas's previous year of extremely low unemployment. The unemployment system and related policies are complex, and KDOL appreciates the difficulty of the task LPA had, to learn about and acknowledge that unlike traditional periods of higher unemployment where the unemployment rate rises over several months, here, the "immediacy of the pandemic caused unemployment rates to surge very quickly," to a rate that is unprecedented in modern times and far exceeds what the state saw during the Great Recession in 2009 and 2010.[1]

Moreover, KDOL recognizes LPA's efforts to fulfill its legislative direction to further estimate the amount of fraud that occurred in the benefit programs administered by KDOL during the pandemic. LPA and KDOL appear to have consensus on an estimate of **$309 million**; LPA has high confidence in **another $71 million**; any amount beyond that, LPA and KDOL agree is low confidence. Therefore, KDOL reads this audit to state that fraud identified by LPA's methodology is **$380 million**, which we believe is a reasonable estimate. The additional amount of $306 million provided by KDOL but not identified as fraud by LPA, which LPA includes in its total, includes a high number of claim payments that KDOL has not yet reconciled. Therefore, the $306 million that LPA includes in its estimate should be rejected until it can be further investigated and accounted for.

[1] LPA Audit, *Evaluating the Kansas Department of Labor's Response to COVID-19 Unemployment Claims (Part 2)*, August 2021, page 5.

The low confidence of additional estimated amounts shows that at this time there is not a reliable fraud measurement for the benefit claims paid out during the pandemic. It further supports the need for the upcoming audit, which if properly conducted, KDOL hopes will yield a more definitive estimate of the amount of benefit fraud during the pandemic.

KDOL's response below provides some additional clarity and context on the benefit programs and issue pertaining to fraud in those programs. As noted below, USDOL-Office of Inspector General (OIG) reported at one point that nearly $89 billion in UI fraud occurred. Compare that with a possible estimate of more than $400 billion that was more recently reported by at least one industry professional whose organization testified before the Unemployment Compensation Modernization and Improvement Council in July of this year.[2] Clearly, the scope of fraud is not yet known and cannot possibly be known at this time.

A spokesperson for the Texas Workforce Commission was quoted as saying: "*Fundamentally, the [UI] system is trying to do two things simultaneously that are at odds with one another: ensure quick payments to individuals and prevent fraud.*"3 (Emphasis added.) Kansas also experienced these competing priorities, and not only does federal law require prompt payment, but during the pandemic there was overwhelming constituent and legislative pressure to pay benefits to distressed Kansans as quickly as possible. Unfortunately, fraudsters – likely both foreign and domestic – took advantage of this situation. The simple truth is that Kansas's and other states' antiquated technology was likely no match for sophisticated criminal syndicates. Compounding the problem was the lack of a timely and cohesive response from the national level on how USDOL would use national resources in preventing UI fraud.

I. KDOL does not disagree with LPA's background of the benefit programs, but believes it is oversimplified and KDOL would like to provide additional information to clarify the complexity of COVID-19's impact on existing and new UI programs as well as the new LWA program.

LPA identified that at the beginning of the COVID-19 pandemic, Congress passed the CARES Act to help individuals whose employment was negatively impacted. Generally speaking, states implemented quarantine measures the week of March 15, 2020, and the CARES Act passed through both chambers of Congress and was signed into law on March 27, 2020. This was an unbelievably fast time frame for legislation that fundamentally changed the way UI benefits were paid out to claimants and who were

[2] Salmon, Felix, *Half of the pandemic's unemployment money may have been stolen*, Axios, issued June 10, 2021, *available at* https://www.axios.com/pandemic-unemployment-fraud-benefits-stolen-a937ad9d-0973-4aad-814f-4ca47b72f67f.html ("Blake Hall, CEO of ID.me, a service that tries to prevent [unemployment insurance] fraud, tells Axios that America has lost more than $400 billion to fraudulent claims."); ID.me testimony before Unemployment Compensation Modernization and Improvement Council, July 13, 2021, *available at* http://www.kslegislature.org/li/b2021_22/committees/ctte_ot_unemployment_compensation_modernization_1/documents/testimony/20210713_01.pdf.

[3] *How Unemployment Insurance Fraud Exploded During the Pandemic*, Mother Jones, James Bernsen, Texas Workforce Commission, quoted in article dated August 4, 2021, issued August 4, 2021, *available at* https://www.motherjones.com/politics/2021/08/how-unemployment-insurance-fraud-exploded-during-the-pandemic/.

eligible to receive UI benefits. All of this change happened simultaneously while Kansas experienced the highest unemployment rate, from 3.2% to 12.6% almost overnight, since at least 1976.[4]

LPA mentioned that the CARES Act created three brand new UI programs: **Pandemic Emergency Unemployment Compensation (PEUC)**, **Federal Pandemic Unemployment Compensation (FPUC)**, and **Pandemic Unemployment Assistance (PUA)**. When the FPUC program expired in July 2020, the President created the **LWA Program**, which provided an additional $300 supplemental payment on top of a claimant's UI benefits for six weeks, which LPA also includes in its report.[5] Not since the creation of the unemployment insurance system has there been this type of authorization of a completely new program – or in the case of PUA, a completely new system. KDOL created, implemented, and operated these programs in addition to the **Regular UI** and **Extended Benefits (EB)** programs.

EB, though it was an existing federal-state partnership program, was triggered in Kansas during the pandemic, where it hadn't been in place since 2012. Additionally, the levels of unemployment in the state during the pandemic resulted in a High Unemployment Period, which triggered High Extended Benefits (HEB), essentially a new program that Kansas had never had to implement. LPA does not include EB or HEB in its description of pandemic unemployment programs, despite the impact that programming both EB and HEB had on KDOL's ability to quickly and accurately pay claims during the pandemic.

Not only do all of these programs interact with one another, nearly all of these programs were subject to statutory amendments and ever-changing USDOL guidance. This resulted in claimants being moved back and forth between programs throughout the pandemic. Furthermore, KDOL had to work with the Governor's office and the Legislature to execute Executive Orders, amend Kansas statutes, and modify existing policies to secure as much federal funding/reimbursement for the state of Kansas.

In addition to the expiration of FPUC and LWA, PUA and PEUC were set to expire in late December. At the eleventh hour, Congress passed and the President signed the **Continued Assistance to Unemployed Workers Act (Continued Assistance Act) of 2020**. The states did not have adequate time to prepare for or anticipate the changes that came with the Continued Assistance Act. The Continued Assistance Act not only extended the length and maximum amount of benefits available under PEUC, FPUC, and PUA, but it also required the states to change how FPUC, PEUC, and PUA operated.[6] These statutory changes were in addition to changes USDOL required the states to make in

[4] U.S. Bureau of Labor Statistics, *Current Unemployment Rates for States and Historical Highs/Low*, last updated July 16, 2021, *available at* https://www.bls.gov/web/laus/lauhsthl.htm (Can only be backdated to January 1976 because that is when the series began.).

[5] LWA is **not** a UI program. Rather, it is a grant administered by the Federal Emergency Management Agency (FEMA). The funds used for the LWA program are normally used for disasters like hurricanes, tornados, etc. FEMA has had challenges administering the LWA program through the states' UI programs. This required KDOL to seek guidance from FEMA about UI matters it was unfamiliar and had not interacted with.

[6] In KDOL's response to LPA's audit on February 19, 2021, KDOL mentioned how the Continue Assistance Act changed the eligibility requirements for the PUA program to require claimants to substantiate their employment with documentation. See pages 6-8. See also Sec. 241 of the Continued Assistance Act. However, the Continued Assistance Act also changed, among other things, how PEUC operated and interacted with EB, new phase-out periods for PUA and PEUC, and limitations on backdating PUA claims.

the guidance that followed. For example, USDOL created three new COVID-19 eligibility provisions that claimants can self-certify under to qualify for PUA.[7] The expiration date for these UI programs was extended to March 14, 2021.

Congress once again at the eleventh hour extended and maximized the amount of benefits claimants could receive under these programs when it passed the **American Rescue Plan Act (ARPA) of 2021** on March 11, 2021. With another stimulus package came more statutory changes and USDOL guidance that required KDOL to change how it operated PEUC, FPUC, and PUA.[8] In total, between the CARES Act, the Continued Assistance Act, and the ARPA:

- **PEUC** – 53 weeks of benefits available for weeks of unemployment through the week ending on or before September 6, 2021 (these benefits are available after 26 weeks of regular UI are exhausted).
- **FPUC** – Reauthorized to provide $300 in supplemental benefits per week through the week ending on or before September 6, 2021.
- **PUA** – 79 weeks of benefits available for weeks of unemployment through the week ending on or before September 6, 2021.

With the expiration of PEUC, FPUC, and PUA quickly approaching, USDOL is releasing more guidance to the states on how to close out these programs. But, KDOL's obligation to administer these programs does not end simply because these UI programs expire. For years to come, KDOL will have to continue to hear claim appeals, recover overpayments, and investigate fraud in these benefit programs.

Each time Congress passed a new stimulus package or USDOL released new guidance on the UI programs, hundreds, if not thousands, of hours of staff time was needed to make the necessary and required changes. **Figure 1** is incomplete because LPA indicates that there were merely nine federal program revisions that "required KDOL to modify its UI system." Since March 12, 2020, when USDOL released it first piece of guidance to the states on COVID-19 and its impact on the regular UI program, USDOL-Employment and Training Administration (ETA) has released **at least 47 pieces** of formal guidance to the states regarding the federal stimulus packages, combatting fraud, recovering overpayments, and permissible state flexibilities in the benefit programs in light of COVID-19.[9] Much of the guidance required KDOL to modify previously established eligibility requirements, reevaluate whether a claimant was receiving benefits from the proper program, in addition to editing underlying code and testing changes before development.

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[7] See UIPL 16-20, Change 5, *Expanded Eligibility Provisions for the Pandemic Unemployment Assistance (PUA) Program, available at* https://wdr.doleta.gov/directives/attach/UIPL/UIPL_16-20_Change_5.pdf.

[8] For example, USDOL previously advised the states that they were **prohibited** from imposing any monetary penalty on CARES Act overpayments. However, USDOL issued subsequent guidance that the states were **required** to impose a monetary penalty on all fraudulent CARES Act overpayments, effective on different dates depending on the benefit program. UIPL 20-21, *State Instructions for Assessing Fraud Penalties and Processing Overpayment Waivers under the Coronavirus Aid, Relief, and Economic Security (CARES) Act, as Amended, available at* https://wdr.doleta.gov/directives/attach/UIPL/UIPL_20-21.pdf.

[9] USDOL-ETA, *available at* https://wdr.doleta.gov/directives/search-new.cfm?type=1. This number does not include additional guidance KDOL received from FEMA on the LWA program, USDOL-OIG, or informally from the USDOL-ETA Regional and National offices.

Each additional piece of guidance from USDOL required states to coordinate additional questions with the regional office and wait for response from the national office. KDOL has submitted **over 130 questions** to the USDOL regional office. LPA cites to the May 2021 USDOL-OIG audit that found that on average, states with modern systems implemented the PUA and PEUC programs earlier than states without. But, LPA did not mention that in the same audit, USDOL-OIG also found that states struggled to implement the CARES Act programs, regardless of how modernized their system was, because "guidance from ETA was **untimely** and **unclear**."[10] KDOL, at times, had to wait months for answers to questions, which sometimes conflicted with answers other states received when they asked the same questions. This was especially evident in the context of what KDOL could do to combat fraud.[11] This was also contrary to what USDOL-OIG has recommended to USDOL-ETA throughout the pandemic, which was to provide guidance to the states on how to deploy "resources efficiently and expeditiously" and "timely oversight to ensure states are effectively carrying out" the critical responsibility to combat improper payments.[12]

The complexity of the unemployment system, recognized technological inadequacy of the UI mainframe, COVID-19 stimulus packages, and USDOL guidance that KDOL is required to comply with cannot be understated or overlooked. Congress's continued amendments to the CARES Act programs and USDOL's untimely, unclear, and changing guidance significantly inhibited KDOL's ability to manage, and sometimes to create, the different benefit programs that all hinge upon one another.

II. KDOL agrees with LPA regarding the difficulty in estimating fraud and acknowledges a more accurate assessment is forthcoming.

As LPA recognized in Part 1 of this Audit, fraudsters nationwide successfully targeted UI programs during the pandemic.[13] LPA did consider the impact of sophisticated international criminal syndicates, which have been recognized as being heavily involved in committing fraud in these benefit programs. In Part 2 of this Audit, LPA now recognizes about 59% of Kansas claim applications could have been

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[10] USDOL-OIG—Office of Audit, *Report to the Employment and Training Administration COVID-19: States Struggled to Implement CARES Act Unemployment Insurance Programs*, issued May 28, 2021, pages 18-19, *available at* https://www.oig.dol.gov/public/reports/oa/2021/19-21-004-03-315.pdf.

[11] USDOL-OIG—Office of Audit, *Report to the Employment and Training Administration COVID-19: States Cite Vulnerabilities in Detecting Fraud While Complying with the CARES Act UI Program Self-Certification Requirement*, issued October 21, 2020, *available at* https://www.oig.dol.gov/public/reports/oa/2021/19-21-001-03-315.pdf. LPA cites USDOL-OIG's October 2020 report to mention how outdated mainframe systems had compatibility issues with the PUA program. However, that report found that states struggled with the PUA program even more than their outdated mainframe systems because of **(1)** a shortage of resources to handle the volume of claims, and **(2)** ETA guidance was **untimely** and **unclear**. See page 6.

[12] USDOL-OIG—Office of Audit, *Alert to Significant Concerns that Cause USDOL to be at Particular Risk of Fraud, Mismanagement, Waste, Deficiencies, or Abuse*, issued March 31, 2021, *available* at https://www.oig.dol.gov/significant_concerns.htm.

[13] LPA Audit, *Evaluating the Kansas Department of Labor's Response to COVID-19 Unemployment Claims (Part 1)*, August 2021, *available at* https://www.kslpa.org/audit-report-library/evaluating-the-kansas-department-of-labors-response-to-covid-19-unemployment-claims-part-1/.

fraudulent attempts.[14] USDOL-OIG explains that identity thieves and organized criminal groups have found ways to exploit UI weaknesses, and these issues were exacerbated by the significant funding increase in response to the COVID-19 pandemic.[15]

In March 2021, USDOL-OIG estimated more than $89 billion CARES Act program-related UI benefit payments could have been paid improperly, with a significant portion attributable to fraud.[16] This is reflected in the reporting of other states. In Oklahoma, a state audit found that $1.04 billion went to fraudulent claims.[17] In California, at least $31 billion were paid out to fraudulent claims.[18]

In Kansas, LPA and KDOL both agree on a **high confidence estimate of $380M** as identified by the neural network tool. KDOL believes that the remainder of the LPA estimate of fraudulent claims cannot be considered accurate without further review, and that a more accurate estimate will be determined through the audit conducted by the independent firm selected by the Unemployment Compensation Modernization and Improvement Council established in 2021 Senate Substitute for Substitute for House Bill No. 2196. As stated by the LPA in Part 2 of this Audit, "[i]t is unlikely all the claims flagged in this estimate will end up being fraud. This would overstate our estimate."[19]

Additionally, LPA focuses on fraudulent payments due to identity theft in its report, while KDOL staff are focused on multiple types of fraud, including identity theft, wage/earnings reporting fraud (when an individual becomes reemployed but continues to file for unemployment benefits) and fictitious employer schemes (where an individual uses a fake employer to gain eligibility for unemployment benefits).

LPA recognizes that KDOL prevented about $2 billion in potentially fraudulent payments during the pandemic.[20] KDOL believes that a more accurate estimate of the fraud prevented by the agency is more than **$20 billion** when the potential maximum payout of fraudulent claims is considered. This number

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[14] LPA Audit, *Evaluating the Kansas Department of Labor's Response to COVID-19 Unemployment Claims (Part 2)*, August 2021, page 8.
[15] USDOL-OIG—Office of Audit, *Alert to Significant Concerns that Cause USDOL to be at Particular Risk of Fraud, Mismanagement, Waste, Deficiencies, or Abuse*, , issued March 31, 2021, *available* at https://www.oig.dol.gov/significant_concerns.htm.
[16] USDOL-OIG—Office of Audit, *Alert to Significant Concerns that Cause USDOL to be at Particular Risk of Fraud, Mismanagement, Waste, Deficiencies, or Abuse*, issued March 31, 2021, *available* at https://www.oig.dol.gov/significant_concerns.htm; See also Tergesen, Anne, *Unemployment-Benefits Fraud Has Soared in the Pandemic. Here's What to Do.*, The Wall Street Journal, issued April 29, 2021, *available at* https://www.wsj.com/articles/unemployment-benefits-fraud-has-soared-in-the-pandemic-heres-what-to-do-11619688601.
[17] Toolis, Brittany, *State Auditor Thinks Almost 20% of Unemployment Claims Were Fraudulent*, News 9, *available at* https://www.news9.com/story/6108377154dd3b14d698d520/state-auditor-thinks-almost-20-of-unemployment-claims-were-fraudulent (Reporting that the Oklahoma's State Auditor estimates that nearly 20% of the unemployment payments went to fraudulent claims).
[18] *CA EDD admits paying as much as $31 billion in unemployment funds to criminals*, ABC7 News, issued January 25, 2021, *available at* https://abc7news.com/california-edd-unemployment-fraud-ca-scam-insurance/10011810/.
[19] LPA Audit, *Evaluating the Kansas Department of Labor's Response to COVID-19 Unemployment Claims (Part 2)*, August 2021, page 14.
[20] LPA Audit, *Evaluating the Kansas Department of Labor's Response to COVID-19 Unemployment Claims (Part 2)*, August 2021, page 15.

is expected to increase as KDOL continues to review claims and those that may be revealed as fraudulent in the subsequent audit.

KDOL continues to work with federal and local law enforcement to criminally investigate identified fraudulent claims. These cases will continue to be referred to the United States Attorney's Office and local district attorneys' offices for criminal prosecution and recovery of fraudulent payments.

Thank you for LPA's work on this Audit, and KDOL appreciates the opportunity to submit this response.

Respectfully,

Amber Shultz
Secretary of Labor
Kansas Department of Labor

Appendix A – Cited References

1. This appendix lists the major publications we relied on for this reportCOVID-19: States Cite Vulnerabilities in Detecting Fraud While Complying with the CARES Act UI Program Self-Certification

Requirement (October, 2020). *U.S. Department of Labor Office of the Inspector General.*

2. COVID-19: States Struggled to Implement CARES Act Unemployment Insurance Programs (May, 2021). *U.S. Department of Labor Office of the Inspector General.*

3. Status of State UI IT Modernization Projects (February, 2020). *National Association of State Workforces Agencies.*

Appendix B – Fraud Analysis

This appendix contains further information about the methodology and results of the fraud analysis presented in this report.

We used a neural network model to help us find fraud using risk indicators.

- A neural network is a type of advanced machine learning model. Models like this are used to map the complex relationships that exist between a series of input variables and output variables. In this audit, the input variables were the fraud risk indicators (along with some basic application information), and the output variable was a binary determination of "fraud" or "not fraud".

- Machine learning models like a neural network train themselves on a set of complete data before they can be used to predict or classify new data.

    - Complete data is data for which the outcome is already known. In this case, the outcome is whether a claim is fraudulent.

    - Training consists of running the model through repeated iterations of a learning algorithm, during which time the model teaches itself to minimize error in its predictions.

    - Once trained, the model can predict the outcomes for data that does not yet have an outcome.

We reviewed 1,000 sampled claims applications to generate a dataset to train the neural network.

- We chose a random sample of 1,000 applications from a universe of about 737,000 unique claims applications to review. Later, KDOL sent an additional 343,000 claims applications, increasing total claims to about 1.08 million. All claims data contained the same fields. Drawing a sample from the roughly 737,000 claims wasn't problematic for two reasons. First, there was no evidence of significant differences in claims characteristics between the two data sets. Second, our final fraud

estimate did not rely on the proportion of fraud found in the sample. That's because we used a neural network, which searches for fraud on a claim-by-claim basis.

- Using 26 fraud indicators we reviewed each application in the sample to determine the possibility of fraud. Fraud indicators included duplicate passwords, security words, and e-mail addresses. We also reviewed residential, mailing, and employer addresses for suspicious information. We used those and other indicators to help us assess fraud.

- For each determination, we marked our conclusion (fraud or not fraud) with a confidence level of low, medium, or high.

- We also used a formula backup to help designate fraud for ambiguous cases. The formula assigned a numerical weight to each fraud indicator, giving each claim a risk score. We relied on the score to help determine fraud when we could not reach consensus or had low confidence.

Various neural networks were trained and tested on the applications we reviewed.

- The 1,000 reviewed applications were randomly split into 3 distinct sets: the training set (700), the validation set (100), and the test set (200).

  - The neural network model reviews the training set while iterating through the training algorithm.

  - The validation set was used to compare models once they were trained. Ultimately, it's how the preferred model was chosen. When validating, it was important to use data the models had not seen. This helped assess the models' accuracy in predicting outcomes of new, unseen data. The final model was selected for its high accuracy and low degree of bias.

  - We then tested the validity of the final model. Once the preferred model was selected, we tested it one final time. To do this we used the final set of 200 applications the model had not seen. Thus, a model's performance on the test set is a strong indicator of the model's performance. The test showed the model predicted the correct outcome 183 of 200 times (91.5%).

Mr. ESTES. Despite the evidence, there is not an incentive for states to recover those unemployment frauds, and hard-working Kansas taxpayers are left with the bill.

Mr. Horowitz, what processes are in place for states to help recoup funds lost to UI fraud, both state and Federal funding?

Mr. HOROWITZ. So, I think one of the key parts of that is working closely with IGs, local/state law enforcement, and their state's attorneys general to make sure there are processes by which the taxpayers can get the money back. That is one of the things we are trying to do, is work closely and—have focused on with state auditors.

In fact, we have a—we created the first-ever state auditor in residence program. So, we have two Tennessee state auditors working with the PRAC to help us, as well as the former California state auditor, so we can develop those relationships and work more closely with the states.

Mr. ESTES. So how are you looking at or expecting states to recover funds that may have been a result of international crime?

And what state or Federal jurisdiction is there, and what has been currently done on that front?

Mr. HOROWITZ. So, the SWA is the state workforce agencies. They are not the law enforcement arm of this, of course.

So, the key is working with local law enforcement, Federal law enforcement. We are working with the Secret Service, the FBI, other Federal law enforcement agencies, and trying to develop those partnerships, because that is the key to the success of moving forward. There has to be the interest not only in making sure the money gets out, which is obviously important, to the right people, but then making sure, when it doesn't get to the right people, that there is the recovery.

Mr. ESTES. Right. Well, thank you.

And I want to thank all of our witnesses for the work that you are doing on behalf of the American taxpayers, and helping make sure that we get money in the right hands and that the taxpayers are protected.

I yield back.

Chairman SMITH. I want to thank the representative, and now I will recognize the gentleman from Pennsylvania, Mr. Smucker, for five minutes.

Mr. SMUCKER. Thank you, Mr. Chairman. Thank you for holding this hearing.

Oversight is an important role of this committee of Congress. And when we know that there is at least 60 billion—the lowest number—and perhaps hundreds of billions of dollars that were fraudulently given to others than those who deserved it, we should be evaluating that and looking at it, and seeing whether the Administration did all they could to prevent that, and see whether this committee under Democrat leadership abdicated their responsibility to provide that oversight.

I would like to use my time to respond to a few of the comments made by Democrats, starting with the ranking member, who I have a great deal of respect for. He opened with a fiery speech that conflated the idea that looking at fraud was the same as trying to

prevent benefits from going to individuals who really needed a lifeline. And I say it is quite the opposite.

And in fact, if—another thing we heard was that there is a voice missing here, voices of families who benefited from those dollars. I think they would be appalled to know that as much, potentially, as for every dollar that they received in a lifeline went to someone that didn't receive it, and will be paid either by them or by their kids and their grandkids, which is most likely, they would be appalled at that. And I think it would be important to have their input on that.

I thought, based on the ranking member's comment, that he perhaps misunderstood the purpose of this hearing in conflating those two messages. And then, as I listened further to other Democrat comments, I realized it was more than that. They were literally trying to say that Republicans, by holding a hearing of this sort, did not support helping individuals. And again, that is just not true.

And they also said that we didn't vote for $2 billion worth of fraud prevention. And I would like to remind Democrats that that was included in a bill of about $1,900 billion that we felt would do more harm than good. We were worried about the inflationary impact of that bill that would harm the American people far more than the handouts that have been provided.

And by the way, we heard that from individuals, everyday Americans in our first hearing, where individuals said that those inflationary pressures, they have now are hurting their ability to provide for their families, and are threatening their ability to be able to keep their businesses open.

And I know this has been mentioned before, but I will say it, as well, to the ranking member and the rest of the Democrats here. I thought it was very unfortunate that Democrats were unwilling to leave the bubble of Washington, D.C. and hear from real American people the impacts of our policies. And I appreciated that the chairman put together a field hearing, and I know we are doing more, and I hope that Democrats will reconsider, because I think it was a very, very valuable hearing. And I think it would be worth all of us hearing that.

By the way, we were right in the impacts of that $1.9 trillion ARPA. We had all first voted for the CARES Act. We thought it was—we felt was absolutely important. But it led to the highest inflation rate in 40 years. We were right.

And if you want to talk about Biden's economic policies, I read a newsletter this morning that I thought nailed it pretty well. You know, Biden came in and inherited an economy that was growing at 6.5 percent, and an inflation rate of 1.5 percent. And somehow, he was, in two years, successful at completely inverting those numbers. And we had 6.5 percent inflation and an economy that is barely growing.

One additional point, and this goes back to something the ranking member said, as well. He proposed the idea that people did not respond—almost 40 percent of Pennsylvanians received more on unemployment than they could have earned going back to work. And he believed that people did not respond to that by staying home. And that, I think, doesn't recognize the very nature—the

very characteristic of human nature: We all tend to do what is right for ourselves, we look out for our best interests.

And one of the arguments that we had, as Republicans, against ARPA is that we put people in this terrible position of needing to decide that, if they went back to work, they would be less able to provide for their families. It is an awful position to put people in, and we don't fault anyone for taking available—or for taking advantage of what was available to them. But it was a bad decision in our part. We could have done far better, as we wanted to at that time, by incentivizing people to go back to work.

One of the amendments that we had included on that bill—they were all rejected, but one was to provide a $1,500 bonus for people to go back to work. Think how that would have changed where we are right now.

We heard directly at that hearing of individuals, of owners of businesses who talked directly to employees and said we won't come back to work because we would lose this benefit or that benefit. And I have talked to hundreds of employers who were in the same position. It was a badly-guided decision that had—that has harmed American people far more than the government handouts that were included with it.

Thank you, Mr. Chairman. I am sorry I am over time.

Chairman SMITH. Thank you, Representative. I would like to recognize the gentlelady from the State of California, Ms. Chu.

Ms. CHU. I would like to start by reminding my colleagues that the Pandemic Unemployment Assistance program was authorized by the CARES Act and extended by the Consolidated Appropriations Act of 2021, both in overwhelmingly bipartisan votes.

Additionally, Ways and Means Democrats secured funding to fight fraud and to recover taxpayer dollars in the American Rescue Plan, which, actually, is the very reason why we have the testimony from the witnesses before us today.

The pandemic was an unprecedented disruption of our economy, which is why Democrats and Republicans acted together to expand unemployment benefits as quickly as possible to assist American families who, through no fault of their own, suddenly found themselves without a way to provide for their families' basic needs. This was a success, which is why the U.S. has had a stronger economic recovery than any of our peers.

And we learned many lessons along the way, including that there were gaps in the distribution of these benefits for individuals such as my constituent, Damian, a father of two who is self-employed and also works part-time as an ambulance driver to make ends meet. Damian didn't qualify for Pandemic Unemployment Assistance, even though his primary employment was self-employment, because he had a small amount of wage income that qualified him for regular UI. So, I was proud to champion the inclusion of benefits for mixed earners like Damian in the bipartisan 2021 Consolidated Appropriations Act.

Likewise, I have heard from many individuals that Federal pandemic unemployment was a lifeline for providing for basic necessities like food and lifesaving medications. That includes Gretchen from Altadena, California, who has been in the film and television industry for the last 30 years and is a cancer survivor whose med-

ical coverage is predicated on the number of hours worked. And Mary from Pasadena, a nursery schoolteacher whose employers' doors closed and had to file for unemployment for the first time in her 26 year career. And May, the primary breadwinner for her family living in Sierra Madre, trying to stay afloat while distance learning with her three kids.

The swift action of Congress mitigated the hardship that jobless workers and their families suffered and was essential in stabilizing an economy that lost a staggering 22 million jobs in just 2 months in early 2020.

We know that there are lessons to be learned from these efforts that can strengthen and sustain the UI system for future emergencies, and I hope that it is the goal of this hearing that we do not neglect our duties to protect our workers in the midst of a global pandemic.

So, Mr. Dodaro, although this is not mentioned in today's testimony, GAO also conducted discussion groups with recipients of UI benefits. Is that correct?

Mr. DODARO. Yes.

Ms. CHU. Well, tell me. What are some of the things they said in terms of what they spent their benefit on?

And did they talk about how the benefits affected their housing and their credit?

Mr. DODARO. We conducted these discussion groups in six states. We did 2 in each state for 12 discussion groups. And people told us they spent their funds on rent, utilities, food, and health care, and other essential activities during that period of time. So, it helped sustain them through that period of time.

They also had a lot to say about the difficulty in getting the benefits in the first place, and we included that in our report, as well.

Ms. CHU. And how did this affect their housing and their credit?

Mr. DODARO. Well, it helped them to maintain, you know, paying their bills, so I would assume that added a, you know, a positive—or at least didn't have a negative effect on their credit.

Ms. CHU. And what do the dozens of high-quality research studies GAO reviewed say about the effect that providing UI benefits during this pandemic and in past recessions had on economic stability?

Mr. DODARO. We reviewed 30 empirical studies that were done, and those studies indicated that it helped support the—stabilized the economy during that period of time, it helped prevent the situation from getting worse, and so it had a, you know, positive effect.

Ms. CHU. Thank you. I yield back.

Chairman SMITH. Thank you, Representative. I would like to recognize the gentleman from North Carolina, Mr. Murphy.

Mr. MURPHY. Thank you, Mr. Chairman. I appreciate you calling the hearing today.

I can't help but think we have gotten sidetracked a little bit. The purpose of this hearing is not to hear stories that, obviously, we all, every single person in this chamber, can tell us about how important these funds were. I mean, my God, everybody can talk about how we desperately needed this program. We are here to talk about the fact that fraud occurred.

Let me just redirect, pull us all back, and let's just direct in the right direction, and get the facts. I would just like to correct a few things, I guess.

The President last night said he has added 12 million jobs, the greatest in history. Well, he got rid of 10 million jobs because of what we did during the pandemic. It is just actually recapturing them. So, let's get to the facts. Let's be true.

And we talk about the unemployment rate. Yes, it is low. But our workforce participation rate now is lower than it was in January 2020 to the tune where more than two-and-a-half million people are not working today who were working in January of 2020, hence the need for workers everywhere.

That doesn't even add in the 18 million individuals who are now receiving Medicaid benefits, who, because President Biden, who has said the pandemic was over, continues the public health emergency where no state is allowed to audit its Medicaid rolls. So that is over 20 million people that we are talking about that should be back in the workforce, and actually contributing to Social Security, contributing to Medicare. We would love to get those people back.

And so, we are here today to talk about fraud. Fraud. And sadly enough, fraud occurs. It is not a Republican problem. It is not a Democrat problem. It is an American problem. It is the fact that when free money—when money flows freely, people take advantage of it. Period, point blank.

In North Carolina, a citizen from the Republic of India alleged that they obtained $40,000 in pandemic unemployment insurance for North Carolina residents, which—by the way, anybody who is in the resident—is in the embassy of India, by the way, in the District of Columbia, can vote, just as an aside to my Democratic friends. That we are going to hopefully stop.

Second, a Federal grand jury in Greenville, North Carolina, where I lived, indicted three individuals for conspiring to commit wire and mail fraud for a heroin and fentanyl distribution ring in eastern North Carolina. Again, fraud occurs when money flows freely. It is not just balloons for everybody. It is actual real things that happen.

Lastly, a woman in Charlotte was—pleaded guilty of $1 million in unemployment insurance fraud by defrauding the State of Arizona.

These are real things, and I commend you guys for the work that you have done. I attack us for not actually attacking this earlier—$350 million in North Carolina.

And so we all know this is what we are talking about. We are not here to tell stories of how we helped it. We did. We could all tell those stories, because it was absolutely needed.

I just find it interesting that my colleagues across the aisle are happy to say that President Trump's Administration didn't put in fraud committee, while they blame him for everything else, but then take credit for all the work that Biden did. So, I just—I think that is kind of interesting.

So let me just ask a few questions as it is. Mr. Dodaro, can I just—what percentage of your workforce is back to work?

Mr. DODARO. Everyone.

Mr. MURPHY. Everybody is back to work?

Mr. DODARO. Well, we were never not out of work.

Mr. MURPHY. Okay.

Mr. DODARO. We have been working all the time.

Mr. MURPHY. Excellent, excellent. I am really glad to hear this.

The—and I ask this to Mr. Turner, and also again to Mr. Dodaro: Does the GAO and the Department of Labor know to the extent in which international cyber crime rings and foreign actors were involved in targeting state systems at all?

Do we have any information about what happened against—with cyber crime, international figures, for fraud for this?

Mr. DODARO. I think that question could best be answered by Mr. Horowitz and Mr. Turner.

Mr. MURPHY. Okay, please do.

Mr. TURNER. Yes. It is equally spread. Well, equally may be the wrong word, but it spread throughout—on the international side, as well as domestic.

Mr. HOROWITZ. Yes, we have seen fraud occurring overseas. Secret Service has testified about this, about breaking up various rings in Nigeria, Russia, China, for example.

Mr. MURPHY. Right. And I think it is—and I will just kind of end with this, because I don't want to beat a dead horse. We all know that this fraud occurred, and we all know that we have not done our job, as Members of Congress, in providing oversight.

You know, it just seems to be an action that one side of this body just is happy to flow the funds. And yes, our American people need it. But for those of us who have actually run businesses, there has to be accountability as to where our money goes. This isn't our money. This is the taxpayers' money. And if we don't know where it goes and where it should not be going, then we are out of business.

And this Congress—and, my God, you know, look at our debt, which some people don't believe exists—we would be out of business, absolutely, if we did not commit to making sure that our money is well spent, and that criminals, criminals, are put back.

And let me just ask a real quick question, if you 00 just two seconds, if you will, Mr. Chair.

Mr. Horowitz, can you expand on the suggestion to increase the penalties for these individuals?

Mr. HOROWITZ. Yes. So, what we have actually asked for is increasing the statute of limitations from 5 years to 10 years. The challenge for us—and I know for Department of Labor IG—is we are already three years since the beginning of the benefits going out. We have got a lot of work still to do.

Mr. MURPHY. Right.

Mr. HOROWITZ. So, if it runs out in 2025 for some cases, that is going to be a problem. We are going to need the 10 years.

Congress did this last year, bipartisan basis, extended it for the two big SBA programs, Paycheck Protection Program, Economic Injury Disaster Loan program. They should do the same here.

Mr. MURPHY. Well, thank you. I hope that that is a bipartisan effort that we can understand that fraud does occur and that we need to enable you guys to actually investigate it and put those criminals behind bars. Thank you.

Thank you very much, Mr. Chairman. I yield back.

Chairman SMITH. I want to thank the representative, but I also want to tack on to his points in regards to the unemployment numbers we have heard numerous times.

It is also important to know the fact that workforce participation is currently at 62.3 percent, which is the lowest since Jimmy Carter was president.

I would love to recognize the gentleman from Tennessee, Mr. Kustoff.

Mr. KUSTOFF. Thank you, Mr. Chairman. Thank you also to the ranking member. Thank you, Chairman Smith, for convening today's hearing. Thank you also to the witnesses.

I know that you had—made diligent efforts to warn Congress early on about the potential for fraud in the CARES program. And unfortunately, we have not had these hearings until now to examine the extent of the unemployment fraud. But we are committed to doing these examinations.

I do want to ask, if I can, there was—relating to Mr. Horowitz's testimony just a moment ago, Mr. Chairman, I would like to submit for the record the very first alert on the pandemic unemployment fraud issue that was issued by the United States Secret Service that I believe Mr. Horowitz just referenced. It is dated May the 14th of 2020.

Chairman SMITH. Without objection.

[The information follows:]



United States Secret Service [INFO]

5/14/2020

[INFO] Information Only Alert – GIOC Reference #20-027-I
TLP Green

Massive Fraud Against State Unemployment Insurance Programs

The United States Secret Service has received reporting of a well-organized Nigerian fraud ring exploiting the COVID-19 crisis to commit large-scale fraud against state unemployment insurance programs. The primary state targeted so far is Washington, while there is also evidence of attacks in North Carolina, Massachusetts, Rhode Island, Oklahoma, Wyoming and Florida. It is extremely likely every state is vulnerable to this scheme and will be targeted if they have not been already.

In the state of Washington, individuals residing out-of-state are receiving multiple ACH deposits from the State of Washington Unemployment Benefit Program, all in different individuals' names with no connection to the account holder. A substantial amount of the fraudulent benefits submitted have used PII from first responders, government personnel and school employees. It is assumed the fraud ring behind this possess a substantial PII database to submit the volume of applications observed thus far.

This fraud network is believed to consist of hundreds, if not thousands, of mules with potential losses in the hundreds of millions of dollars. The banks targeted have been at all levels including local banks, credit unions, and large national banks.

Please communicate the information regarding this fraud to the appropriate office at your local state level and liaison with local financial insitutions to identify mules and potential seizures. ***If you have reports of similar activity or do so in the future, please send to the following email router for coordination: gioc.specialops@usss.dhs.gov.***

[INFO] - Indicates informational or educational content.

GLOBAL INVESTIGATIVE OPERATIONS CENTER
WASHINGTON, D.C.

Mr. KUSTOFF. Thank you, Mr. Chairman. The alert is titled, "Massive Fraud Against State Unemployment Insurance Programs," and it was directed to financial institutions across the country. And to what Mr. Horowitz just said, it warned them of a well-organized Nigerian fraud wing that was exploiting the COVID–19 crisis to commit large-scale fraud against state unemployment insurance programs.

The alert indicated—or indicated, rather—that banks at all levels, at all levels were being targeted, and that the fraud wing possessed a substantial database of personally identifiable information of first responders, government personnel, and school employees.

Mr. Horowitz, back to you for a moment. I think you testified a week ago before the House Oversight Committee.

Mr. HOROWITZ. That is correct.

Mr. KUSTOFF. Your—some of your testimony, what you said, is referenced, I saw, in an ABC News article from last week. This is what it said you cited, if I can read from this report.

It says that the $5 trillion—$5 trillion total spent on pandemic relief—throughout both the Trump and the Biden Administrations, "Horowitz said that the amount siphoned off by fraud could be anywhere from tens of billions of dollars to over $100 billion, but that it would be years before the final numbers were tallied. The issue, Horowitz said, was that the trillion-dollar programs had to get off the ground quickly to prevent potential economic collapse, but they lacked key fraud protections, including verification systems and information-sharing with other agencies to match up Social Security numbers with people's names and birth dates."

So, I guess my first question, is that—that fairly accurately reflects what you testified to last week.

Mr. HOROWITZ. It does.

Mr. KUSTOFF. You testified that the fraud could be over $100 billion. We have heard a lot of numbers testified to today. In fact, it could greatly exceed $100 billion, right?

Mr. HOROWITZ. I don't know. It could.

Mr. KUSTOFF. I am a former United States attorney. Mr. Fitzpatrick is a former FBI agent. Mr. LaHood is a former assistant U.S. attorney. I think everybody here, hopefully on both sides, is concerned about the amount of fraud. When do we know that number? When will we know that number?

Mr. HOROWITZ. I think it is going to be years to get a more precise number, exactly for the reasons you just read, which is—and as you know, having been a Federal prosecutor, and for anybody who has been in law enforcement, to find the overseas fraud is particularly challenging.

Mr. KUSTOFF. Yes.

Mr. HOROWITZ. You need to go through—you need the help of other countries to find the money, because it probably isn't in the United States anymore. It is probably somewhere overseas.

Mr. KUSTOFF. Do you have an opinion whether the biggest fraud is committed by domestic entities and individuals, or by foreign entities?

Mr. HOROWITZ. I think it probably depends on the type of scheme we are talking about.

I think whenever you undertake programs like happened with the two programs last week, the SBA programs and the self-certification here for some of the UI programs, you are inviting fraudsters to come in. They don't—they can be in the United States, they can be overseas.

One of the things, by the way, we are looking at with the data analytics we are able to use, we are looking at IP addresses, now that we have that information. We are going to try and figure out how much of the incoming was from overseas.

Mr. KUSTOFF. If I can, briefly, two more questions.

Again, you cited the problems with the system. Essentially, the systems don't talk to each other. The—couldn't match up the Social Security numbers with people's names and birth dates. If we had another incident today like the pandemic that called for whatever relief, are those safeguards in place today?

Mr. HOROWITZ. So, the good news is things are improving. The bad news is we are not there yet.

And credit to many of the state workforce agencies that have come together to try and build identity verification systems and share information across their agencies, because, for unemployment insurance at least, we are dealing with 54 different entities managed at the local level, and they need to work together better.

There are efforts underway. There is a lot more that needs to be done to get there.

Mr. KUSTOFF. Thank you.

Mr. Chairman, if I can, just briefly?

In your written report—we talk about the—that the PRAC is working collaboratively with Department of Justice, with the National Credit Union Administration, and other law enforcement agencies. You cite in your report that the data collection effort identified about $8.75 million that may be subject to recovery. I applaud that. But it is kind of a drop in the bucket.

Do you have other programs with other fiduciaries, domestic banks, et cetera, larger financial institutions?

Mr. HOROWITZ. That is what we are working with, and we are working with the Secret Service and other law enforcement that have been engaged with the financial institutions.

As you know, people think of the Secret Service primarily as protecting the President and other dignitaries, but they actually have a major role in dealing with counterfeiting and other financial institution fraud. So they have got a lot of relationships. We are trying to leverage off of those in our work.

Mr. KUSTOFF. Thank you, sir.

I yield back. Thank you, Mr. Chairman.

Chairman SMITH. Thank you, Representative. I am pleased to recognize the gentlelady from Wisconsin, Ms. Moore.

Ms. MOORE of Wisconsin. Thank you so very, very much, Mr. Chairman.

And I want to join the bipartisan rebuke of fraud. And I want to commend all of you for the efforts that you are making for recovery. And, you know, as a member, I am willing to explore ways to help with that recovery.

As many of you have indicated in your testimony, written and verbal here today, this is not a new problem. We have heard var-

ious dates pushed out by many of my colleagues about when this started. But I was thinking that 2010 was when the GAO first gave us a warning that our systems were at risk.

Is that right, sir, Mr. Dodaro?

Mr. DODARO. Well, we have—I don't—no. The—what I said about 2010 was that the—New York's deputy comptroller notified New York State in 2010 that their systems needed to be improved.

Ms. MOORE of Wisconsin. Right, okay, thank you for that clarification.

And, you know, I am from Wisconsin, and I know that our IT systems go back to the 1970s. You know, there was a sharp drop in eligible unemployment recipients from, like 40, 50 percent to 28 percent. And what states like Wisconsin did, many states did, is their staff, their trained staff, was also reduced in proportion to that. So, no one was ready for this pandemic. That just left things open for fraud, I would think.

And I would like to just get some clarification for Mr. Turner.

You mentioned that, you know, a lot of the overpayments that we saw, and maybe even underpayments, were not people's faults, necessarily. They were states' faults, their administrative problems that they had, given this old technology and how overwhelming it was.

I mean, we—you know, I have a report that I am going to ask to be entered into the record, and it talks about how, in Wisconsin, for example, that 80 percent of the people who called, they just let the phones ring because they couldn't respond to it.

So would you agree that, really, stuff outside of—that, you know, states not implementing it, the Trump Administration not implementing your recommendations, that these things created a glide path for fraud?

Mr. TURNER. Well, there was a lot of mistakes made from the states. In some cases, it was a lack of training——

Ms. MOORE of Wisconsin. Yes.

Mr. TURNER [continuing]. on the part of the staff.

In the case of PUA, it was a lack of understanding the program in some cases. And therefore, that caused some errors.

Ms. MOORE of Wisconsin. Right.

But given that, I guess the other thing that I would like to know from you, with all of your experience, Mr. Dodaro, do you still stand by the statement that the U.S. Government Accountability Office reviewed 30 different empirical studies and concluded that UI benefits created overall economic stability and improved outcomes for individuals?

Mr. DODARO. I do.

Ms. MOORE of Wisconsin. Okay. And I just am sort of wondering, if we had not provided—you said you were there when Mr. Paulson showed up asking for that 700 billion. Do you think we could have had the same kind of catastrophic events, had we not have provided unemployment?

Mr. DODARO. I think the—yes, we——

Ms. MOORE of Wisconsin. The 54 million people. Okay, thank you.

Mr. DODARO. Yes.

Ms. MOORE of Wisconsin. Also, you did these 30 reports, and you said—you reported that 8 of the 12 studies reviewed discussed whether the benefits discouraged folk from returning to work, and they said no. Is that something that is the case?

Mr. DODARO. That is what the studies concluded.

Ms. MOORE of Wisconsin. Okay, very good.

Well, anyway, I would like, before my time expires, to enter into the record a couple of documents, one from the Wisconsin Public Radio: Lives on Hold: Pandemic Exposes Failures of Wisconsin's Unemployment Insurance System. And really, there are so many sad stories.

I have other sad stories I would like to enter into the record from my district office that talked about people just feeling almost suicidal and giving up hope of not getting their benefits.

This particular publication talks about a man in Wisconsin who moved into his car because he—you know, he checked the wrong box. He said he was—he didn't know why he was let go of the job. So that just sent his application into weeks and months' long obscurity. And he was humiliated, as a man, that he had to move in with his ex-wife and her new boyfriend in order to survive. That is very humiliating, and I think I would like everybody to—share that story with everybody.

Mr. Chairman, I would like to ask unanimous consent to put in the record Lives on Hold: Pandemic Exposes Failures of Wisconsin's Unemployment Insurance System, and some redacted copies of the—my constituents who were affected, and I appreciate it.

Chairman SMITH. Without objection.

[The information follows:]

WISCONSIN PUBLIC RADIO

Lives On Hold: Pandemic Exposes Failures Of Wisconsin Unemployment Insurance System

State Has Failed To Deliver Unemployment Aid To Thousands. The Crisis Was Years In The Making.

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When Fall River-based Robbins Manufacturing laid off David Ficke on March 29, the welder followed in the footsteps of hundreds of thousands of Wisconsinites during the coronavirus pandemic. He filed an initial unemployment claim, hoping it would help him survive a shutdown of much of the state's economy.

But when an early morning call to the state's unemployment helpline placed him in a queue of 400 to 500 people, Ficke knew he would wait a long time for aid as Wisconsin's first come, first served system drowned in a flood of claims.

Unable to pay rent at his apartment in Beaver Dam, he moved into the "Hotel Chrysler" — his 2006 Town and Country Touring Edition minivan. Ficke drove west to a rest stop outside of Albert Lea, Minnesota. He wanted to be near his 3-year-old daughter who was living with his ex-wife and her family.

The family soon discovered Ficke was living in his van and insisted that he stay with them. That is how he ended up living with his ex-wife, her parents and her new boyfriend.

"It is what it is," Ficke, 42, said in a video interview over Facebook Messenger. Ficke could not speak over his cell phone; he lost service for lack of payment during his nearly three-month wait for jobless benefits. But he's trying to stay positive.



When a phone call to Wisconsin's unemployment insurance helpline placed David Ficke in a queue of 400 to 500 people, he knew he would wait a long time for aid as Wisconsin's first-come, first-served system drowned in a flood of claims. Rather than risk eviction, Ficke, a laid-off welder, traded his apartment in Beaver Dam, Wis., for a stay at the "Hotel Chrysler" — his 2006 Town and Country minivan. *Courtesy of David Ficke*

"We're all here for our little baby," he said of his daughter.

Half A Million Claims Pending

The Wisconsin Department of Workforce Development (DWD) has paid about 2.5 million of more than 3.4 million weekly unemployment claims it received between March 15 and June 20. The agency has denied 409,000 claims and has yet to process 509,000 others, the latter of which represents about 151,000 people.

The agency added hundreds of new and reassigned workers during the pandemic to staff phone lines and process and adjudicate backlogged claims. DWD Secretary Caleb Frostman said in a June 17 interview that his agency was "very, very close" to resolving outstanding claims from March, the earliest days of the pandemic, and the agency is prioritizing adjudicated claims in the order they were received.

Frostman blames the slow pace on a chronically underfunded and outdated computer system and initial short staffing that left his agency ill-equipped to handle the rapid onslaught of claims. Republican lawmakers accuse Frostman and Democratic Gov. Tony Evers for lacking urgency — waiting too long to expand call center hours and shift employees to address the biggest problems.

Not up for debate: that Wisconsin's unemployment insurance system has failed to deliver for thousands of residents at a time when they most need it, leaving many to miss bill payments, rack up new credit card debt, lean on food pantries and face eviction — even homelessness.

The state's tangled unemployment safety net has failed in a variety of ways to catch its residents, interviews with 16 laid-off workers show. Their stories highlight the difficulties of navigating the state's unemployment system under any circumstances — let alone during a global pandemic.

Wisconsin's unemployment insurance woes are part of a national trend, according to experts and media reports.

Pennsylvania as of mid-June still had yet to process 15 percent of claims filed in March. In Florida, which has received 2.3 million "unique" jobless applications, one applicant needing to provide information reported calling an assistance line as many as 400 times without getting through. Unemployment insurance applicants in Kentucky have waited outside of state offices for hours to resolve claims issues in person. Washington state called in the National Guard to address its claims backlog. The interim director of Nevada's unemployment insurance system resigned from her post after the governor reported "threats to her personal safety" from frustrated claimants.

The pandemic struck after a years-long push in Wisconsin and other states to make accessing jobless benefits harder.

Just 32 percent of unemployed Wisconsin workers accessed benefits in 2016, down from 50 percent in 2007, according to a 2017 study by the National Employment Law Project, a nonprofit that supports protections for low-wage workers and the unemployed. Nationally, the rate of covered unemployed workers fell from 36 percent to 27 percent over the same period.

"Systems have been over-calibrated to prevent overpayments at the expense of paying appropriate benefits. States have programmed their computer systems to pause applications at every decision point, which can generate multiple eligibility determinations and denials," Michele Evermore, senior policy analyst with the unemployment law group, testified this month to the U.S. Senate Committee on Finance.

"As we have seen, that is going to slow down benefits getting to the public when there is a crisis," Evermore said.

'Not Sure' Leads To Long Wait

Ficke's wait for help concerns how he lost a previous welding job at Karavan Trailers in Fox Lake in 2018. Wisconsin requires unemployment insurance applicants to have worked within the past 18 months and earned enough wages. Applicants must detail that job history.

Ficke is not sure whether Karavan fired or laid him off, but his exit came as the company cut more than 50 employees at once, he recalled. The exit was not traumatic when it happened, since Ficke had already started working part time at Robbins with prospects to add more hours.

Asked on his unemployment insurance application to explain why he left Karavan, Ficke checked a box signaling he was unsure. That sent his application into an abyss of claims needing adjudication — and it required reaching an elusive DWD staffer over the phone.

"I understand waiting four or five weeks. I get it, I do," Ficke said. "But when you're out eight, nine,10, 11 weeks, you have to be able to do something for the people."

He added: "We need to hold people accountable."

Problems not new

Ficke is among many who complain of getting kicked off overwhelmed DWD phone lines while trying to resolve claims issues. The pandemic made the problem more visible, but the issue is not new.

A 2014 state audit found that DWD call centers automatically blocked 80 percent of calls during times of high volume.

"It can be challenging for DWD to handle significant, temporary increases in calls during certain times of the year. If the steps that DWD has planned are insufficient and large

numbers of calls are blocked in the coming months, DWD may need to take additional action," the audit said.

The audit came as Wisconsin's Republican-controlled Legislature largely focused on limiting access to unemployment insurance and reducing perceived fraud.

Beginning in 2011, the Legislature under then-Gov. Scott Walker, a Republican, enacted a series of laws that: created a one-week waiting period for benefits (temporarily waived during the pandemic), increased work search requirements for recipients, disqualified people on federal disability from accessing unemployment compensation and increased criminal penalties for making false statements or representations on applications.

Additionally, Walker signed a lame-duck law just before Evers took office that restricts the governor's ability to waive certain requirements for state-federal benefits programs including unemployment insurance. And Wisconsin's $370 a week maximum benefit is among the most miserly in the United States, ranking 40th among the states and the District of Columbia. (Through the $2 trillion CARES Act stimulus, the federal government is adding $600 to each check through July 31.)

Unemployment applicants as of June 23 spent an average of 19 days waiting for their claims to be paid, according to DWD. But people in Ficke's shoes are waiting much longer as the agency investigates and adjudicates issues its system flags as problematic.

In May the agency announced it had contracted the firm Nelnet to provide at least 200 people to process and adjudicate claims. The agency later said Nelnet would ramp up to 300 such workers by the end of June. DWD contracted two additional vendors to add hundreds of new staff to overwhelmed phone lines. The agency received 439,000-plus unemployment insurance calls the week of June 20 alone.

All told, Frostman said the agency will be adding about 1,300 new staffers to handle the surge of claims and calls, up from 504 total unemployment insurance staff in March. But 20,000-plus people continue to file initial claims every week, only adding to the adjudication line. Many laid off workers can't afford to wait any longer for help.



Chenon Times-Rainwater helps organize a Facebook support group for people wrangling with the state's unemployment insurance system. Times-Rainwater waited over two months for the Wisconsin Department of Workforce Development to process her unemployment claim. *Courtesy of Chenon Times-Rainwater*

That includes Chenon Times-Rainwater, a 41-year-old life coach and small business owner in West Bend. She waited more than two months for her claim. It was resolved June 26, but she said the agency did not calculate her benefits correctly. Times-Rainwater made the difficult decision during the pandemic to place her 16-year-old daughter with special needs in a group home when her family could no longer pay for caregivers to come to their house.

"We can't afford to pay her staff without income."

Times-Rainwater helps organize Wisconsin Unemployment Support Group, a Facebook gathering to trade tips and moral support for folks battling DWD bureaucracy. The group has swelled to about 4,000 members during the pandemic. In her leadership role, Times-Rainwater said she has helped relocate 14 families that have lost their homes after losing jobs and lacking state aid.

Her group wants Evers to fire Frostman and Mark Reihl, DWD's unemployment insurance administrator.

"The incompetence and unwillingness to coordinate with other states, seek appropriate guidance, acknowledge defeat, and accept any responsibility for the ultimate failure of the DWD's response the Covid Relief efforts are astounding," the group said in a press release Thursday

"Sixteen weeks people have gone without income," Times-Rainwater said in an interview, "and nobody cares."

Wisconsin Slow To Distribute Federal Aid

Wisconsin is also distributing unemployment benefits under a separate federal program: Pandemic Unemployment Assistance (PUA). Congress created the program for people who lost their jobs because of the pandemic but "would not qualify for regular unemployment compensation."

Congress channeled PUA funds through state unemployment insurance agencies, and Wisconsin has struggled to allocate the money to folks who need it. That includes Adriana Patino, 44, of Marshall in Dane County.

The single mother, who asked to be identified by her maiden name, earns a living transcribing and captioning off-line videos such as university lectures and work training — work that began drying up in April.



After nearly two months of waiting, Adriana Patino finally received unemployment aid in late June, but only after tragedy struck. While waiting for her claim to be reviewed, Patino learned that her eldest daughter died in Texas, and she had no money to travel to the memorial service. *Courtesy of Adriana Patino*

PUA was designed specifically to reach people like her; as an independent contractor, she does not qualify for traditional unemployment aid. But Patino said DWD took two months to even allow her to apply for PUA, leaving her without income and falling behind on rent and car payments. DWD eventually expedited the denial — but only after tragedy struck.

Patino previously worked for a company called CRV Holdings. She left on good terms last year to pivot to freelancing — giving her more time to care for her 5-year-old daughter. DWD doesn't allow people to apply for PUA until the agency denies them regular benefits.

Patino's case is not complicated in that regard; leaving a job voluntarily, even on good terms, is enough to prompt a Wisconsin claim denial. But she waited two months for DWD to deny her regular claim.

While still waiting for a denial, Patino learned that her eldest daughter died in Texas, and she had no money to travel to the memorial service, which has since been delayed to avoid spreading COVID-19. The same day she heard the terrible news, Evers' office replied to one of her earlier emails seeking help. Patino sent a fiery follow up.

"I ripped into them," she said. "Life is unpredictable, but to assume everyone can wait (for unemployment benefits) is a guarantee that a small percentage of those folks will be affected tremendously."

An adjudicator called the next day with news: DWD had finally denied the regular claim. That sent Patino into a new queue of people waiting on the agency to process their PUA claims.

"What's scary is that some of the PUA questions leave room for the adjudicator to make an assessment that could go another way if it were someone else. Mine were both very kind, but when they use terms like 'fair enough' — and your livelihood is hanging in the balance — it is unnerving," Patino said.

Money finally showed up in Patino's bank account on June 22.

"It's just a testament to how slow the process still is, even when they do try to expedite a request from the governor's office because of circumstances like mine," Patino said.

Wisconsin accepted more than 75,000 PUA claims through June 20. Congress created PUA in late March, and the U.S. Department of Labor issued administration guidance to states on April 5. But Wisconsin did not begin accepting claims until April 21, and DWD took another month to issue determinations and payments.

Frostman, the workforce secretary, said his agency needed time to interpret federal guidance for the new program. By April 27, for example, state agencies nationwide asked enough questions to prompt the labor department to update its guidance. Another obstacle Frostman cited: DWD's 1970s-era technology, a vulnerability that lawmakers and regulators have understood for decades but never bothered to fix.

DWD planned a major overhaul of its computer system more than a decade ago, but Democratic Gov. Jim Doyle's administration pulled the plug in 2007 as the project — contracted to two outside companies — fell behind schedule and looked poised to exceed its $24 million budget.

The agency's IT system requires sequential testing and programming, Frostman said, meaning new benefits programs must be added to the system one at a time. That meant DWD could not program PUA rules until it finished handling other changes required by Congress and the Wisconsin Legislature. Those include the federal government's temporary $600 weekly increase in benefits and the state's waiver of a one-week waiting period for benefits.

The agency began accepting applications on June 24 for benefits under another federal program: Pandemic Emergency Unemployment Compensation, which adds 13 weeks of aid for people who have exhausted regular benefits.

Frostman said he understands frustration with his agency, adding that its efforts are "starting to bear fruit" in processing claims more quickly.

"If they're found eligible and making their weekly claims, they'll get every dollar they're entitled to including back pay," Frostman said.

Still, he acknowledged, back payments would not fix every hardship of living months without income.

Returning To Work, But Not To Normal

The pandemic is far from over, but businesses are reopening, leaving some Wisconsinites returning to old jobs or searching for new ones.

While waiting for his claim to be adjudicated, Chris Acree learned that he is going to be a father. The Fox Valley Mall Burger King he manages in Appleton reopened in June. That will offer a financial boost, but the 33-year-old remains behind on his rent and car payments.



April Lamm, a single mom in Beloit, Wis., tapped her tax refund and federal stimulus check to pay bills in April and May. As she waits for her claim, she is looking for work she can do from home while watching her 7-year-old son. But most remote work requires a computer, something Lamm does not own. *Courtesy of April Lamm*

April Lamm, a 41-year-old single mom in Beloit, tapped her tax refund and federal stimulus check to pay bills in April and May. As she waits for her claim, she is looking for work she can do from home while watching her 7-year-old son. But most remote work requires a computer, something Lamm does not own.

Lori Yach, 48, said the bartending job she landed in November at Ho-Chunk Gaming in Nekoosa finally allowed her to live comfortably while paying down the fines she accumulated during years of struggling with addiction. Out of work since late March, Yach is aiming to bolster her resume by taking a free class through Portage County to become certified as an office assistant. She applied for food stamps while waiting on her PUA claim.



Out of work since late March, Lori Yach is aiming to bolster her resume by taking a free class through Portage County to become certified as an office assistant. She applied for food stamps while waiting on her claim for federal pandemic assistance. *Courtesy of Lori Yach*

Antonette Matis has returned to work as a dispatcher for Washington County's subsidized shared-ride taxi service, but at reduced hours. The 58-year-old, who has limited mobility since breaking her neck in 1975, worries she will lose her car and apartment if DWD does not reverse its ban on federal disability recipients receiving PUA aid.

Jessica Barrera, a single mom in Eau Claire on federal disability, joins Matis in hoping DWD will grant federal pandemic aid to folks like her. After losing her airport shuttle company job in March, Barrera this month began working weekends at Menards. But retroactive benefits would help her fix a credit score that plunged when she maxed out her credit card to keep her apartment.

In Marshall, Patino said her freelance work is starting to pick back up. In West Bend, Times-Rainwater is advocating for laid-off workers full-time.

Ficke, the welder, guessed he has applied to 20 to 25 jobs during the pandemic. He's praying that Robbins Manufacturing, a small family-run company, will hire him back.

"The owner knows your name. He knows your kid's name," Ficke said. "You're not just a number. You're not just another robot to crank out as much as you can."

This story comes from a partnership of Wisconsin Watch and WPR. Bram Sable-Smith is WPR's Mike Simonson Memorial Investigative Fellow embedded in the newsroom of Wisconsin Watch (wisconsinwatch.org), which collaborates with WPR, PBS Wisconsin, other news media and the University of Wisconsin-Madison School of Journalism and Mass Communication. All works created, published, posted or disseminated by Wisconsin Watch do not necessarily reflect the views or opinions of UW-Madison or any of its affiliates.

Anonymous Constituent Unemployment Insurance Testimonial Excepts

1) "Good morning thank you so much for reaching out my status with unemployment hasn't changed at all. I do call them often, status is still the same. They are trying to determine if I am available for full time work due to how I answered the question my first week filing. During the first week, my child's daycare facility was closed down abruptly and I had to arrange a different situation for him for the following weeks. I have let the unemployment office know this. I am now three months behind with rent, I reached out to community advocates here in Milwaukee when I was first laid off. I was approved for rental assistance but still have yet to hear back. This is very stressful, and it's sad to know that the whole summer has gone by without me being able to have any kind of income, I do have a 6year old son that I care for alone, and we aren't even able to keep the WiFi service on for virtual learning in September. I'm praying things get better, that's really all I can do. "

2) Subject: Unemployment Insurance
Body: I have been having problems filing my unemployment insurance claim since 2015. I was told by a Wisconsin unemployment insurance agent to contact my congress to help me resolve this issue. I have been gathering all of my documents for a month now. The system has not been allowing me to login for over a month as well and they keep telling me they are working on the problem. I need assistance with being able to login to my account so I can continue my unemployment claims. Before I send my unemployment case to you, I want to make sure it is going in the right direction.

3) [redacted] was out from work at Walmart for 3 months. She worked there for 5 years work. She is back to work but wants to receive unemployment for the time she was off. She is waiting for a decision. I told her that she might not be eligible because she was still on the payroll. I told her she could appeal if she was denied. I told her to call back once she has a decision if it was unfavorable. she thanked us for taking her call.

4) Subject: Issue with Unemployment office
Body: Hello,
I am writing you today because I need your help. I was receiving unemployment during covid until September of 2021. I was a victim of Fraud according to the UI offices finding in July 2021. The bank account

that was receiving the deposits from UI in was frozen and I had two weeks worth of UI that froze with it. I've asked the bank numerous times to let me access my money but they claim ui needs to have their bank contact, my bank to get a reversal so I can be paid for these payments in the proper account. This is truly disturbing to me that I have now called UI over 10 times on the issue and I still do not have my money. I desperately need this money. Money that I've already paid taxes on. Please make this right.

5) "problem Description: I have been waiting on my unemployment since may. And they still don't have the issue resolved. It's only 4 or 5 weeks of pay but I need it. I have called them several ti.es to get this issue resolved. Can you please assist me?"

6) "unemployment ran out in March last year and she applied for PUA got a denial and she appealed. She is still trying to get it . I was told she is still eligible but they need 2019 employment payment."…..I spoke with Mr. Branch he is working for the City of Milw now but is owed 18months of unemployment. I gave him his (Johnson/Goyke) state rep information. He thanked us for the information and for getting back to him.

7) "Problem Description: I'm helping my son, John [redacted], try to get appeal date for his unemployment.

   This has been going on for close to a year. He collected unemployment from his previous employer, Visu-Sewer.
   Right at end of the 6 months of payment. His employer fought the payments.

   At that time my son was living with friend and didn't receive court date information.

   He filed an appeal in March 2020. He kept calling for status and was told over and over they are in backlog and would hear something in future. Never happened. He recd notice he has to pay back over $9000 which he doesn't have and should not have to repay. There is more to story, but, need to figure out how he goes about getting court date to appeal. We aren't having luck with anyone."

8) "Dear Congresswoman Gwen Moore:
   This note is to bring to your attention the plight of some of us, "mom and pop" landlords in the city of Milwaukee.

In my case, I have a tenant who now owes me rent for six (6) months, April – September, 2021 … a total of $4,580.00. She has applied to Community Advocates for help, but has been unable to provide them documentation to support her application such as: paystubs, proof of unemployment income or letter from previous employer. The truth is that she does not have such information because she has not worked since the pandemic hit Milwaukee early in 2020.
It seems to me that the government should not on one hand prevent landlords from evicting tenants and on the other hand demand documents that tenants cannot provide. In the meantime, the money Congress approved for relief is sitting idly by.
Any help you can offer to remedy this situation will be highly appreciated.
Sincerely,"

9) "I'm reaching out to see if I can get any help with the process with my unemployment. I've been filing since last year when the pandemic started. I got denied and went through an appeal process and then still got denied under regular unemployment. Just recently in May of 2021 I was sent a letter stating I was eligible for PUA. I went ahead and provided everything for PUA and was denied again. I went through another appeal on 9/15/21 and finally the decision was overturned. Well now I'm locked out and undergoing an investigation for identity and I'm not sure why and it's stopping me from getting paid. They granted me from week 12 of 2020 til current for back pay. I'm a single parent and currently pregnant and due Nov 9th 2021 and struggling paying my bills and wondering if I can get some assistance on speeding up the process of getting paid."

10) "Hi,
I was wrongfully terminated in June of 2020.
The EEOC admittedly hasn't even read my response to the employers letter.
I am now on the edge of homelessness thanks to unemployment termination and the end of PEUC.

Why should I go work for employers that can destroy my mental health and the employment laws that exist are irrelevant?

EEOC Charge 443-2020-01940 details gender based harassment, disability discrimination and retaliation.
I was tortured for three months and offered hush money on termination, to include a threat to fight against unemployment benefits if I didn't sign!

I've been seeing a therapist since March of 2020.
I don't see any point in destroying myself any further.
I have lost all faith in this society and it's rules.

I don't know what I am expecting in this contact.
I know we had some correspondence some time ago, but nothing has actually changed."

11) "Hello,

I won two appeal hearings in August and am waiting to receive my back pay, however unemployment (online and via phone) says they're still waiting for determination, which is what it's said since the beginning of this year when my benefits were wrongly evoked.

I've been unable to find any assistance/answers as to why my UI account won't update determinations and I need to pay my past due rent.

Is there anything I can do to help this process get rolling/to receive my benefits ASAP? Would Madison Hearing Office be able to assist in any way???

Please help!"

12) "Subject: Unemployment PUA
Body: I have been waiting since forever I am terrified and I'm the verge of losing everything pls help me ."

Ms. MOORE of Wisconsin. Without objection?

Chairman SMITH. Without objection.

Ms. MOORE of Wisconsin. Thank you so much, sir, and I yield back.

Chairman SMITH. Thank you, Representative. I would like to recognize the gentleman from Pennsylvania, Mr. Fitzpatrick.

Mr. FITZPATRICK. Thank you, Mr. Chairman.

Mr. DODARO, just to slightly revisit the issue of state waivers from a different angle, as was mentioned earlier, I believe, by one of my colleagues referencing the GAO report back in March of 2021, in that report you had discussed the issue of overpayments with the PUA program, and the report said, keying in on one provision there, it said the DoL did not have plans to collect data on states utilizing authority to waive Pandemic Unemployment Assistance overpayments or the amount of overpayments that the states may have waived.

Obviously, it is concerning that the exact amount of loss due to fraud is not known for the reasons we discussed earlier. But just as far as having no information about states waiving overpayments, some of which may have been fraud, don't you believe that that information is, in fact, needed to effectively monitor and, ultimately, recover these overpayments?

Mr. DODARO. Yes, absolutely. We recommended that the Labor Department require the states to report how much money they have recovered, how much they have waived, as well.

And so, I am always wary of waivers. And I think it is important that the Labor Department have accurate information from the states to monitor that effort.

Mr. FITZPATRICK. And any suggestion on a remedy there, moving forward?

Mr. DODARO. Well, there just needs to be required reporting of that. I think that is just proper management of the program to be able to do that. And the Department ought to follow up with the states.

And I think it is also appropriate to either have the state auditors, or perhaps at the Federal level, one of us do a sample of the waivers to make sure they were adequately supported during the process. So there needs to be——

Mr. FITZPATRICK. Do you have the manpower to do that?

Mr. DODARO. No, but we could find some way to figure out how to do it. But somebody ought to do it. I think state auditors would be in the best position to do that.

In fact, I don't think the Federal Government uses state auditors as effectively as possible for either the unemployment insurance program or the Medicaid program, for that matter, because each state system is a little different.

Mr. FITZPATRICK. Right.

Mr. Turner, in your testimony you had updated your estimate of improper payments from roughly $163 billion to $191 billion, with a significant portion attributable to fraud. Your estimate uses DoL's reported improper payment rate of about 21-and-a-half percent for fiscal year 2022.

Understanding Mr. Horowitz's well-made point that tracking this stuff is incredibly difficult once it leaves our shores, it does require

cooperation with foreign governments, it is incredibly challenging, nonetheless I think it exposes a massive vulnerability in our system to allow it to leave our shores in the first place.

But to the extent you haven't addressed this yet, sir, explain why your estimate is so substantially different from the Administration's estimate of $104 billion.

Mr. TURNER. Well, again, we take our rate from the Department. And based on what the Department gave us, 21.5, that is how we end up calculating it, the 191. So—and that is—they are the ones that is responsible, as the policy owners, to provide that rate. We can't develop it ourselves.

Mr. FITZPATRICK. Has there been any discussion with the Administration of reconciling these numbers?

Mr. TURNER. No, there has not been.

Mr. FITZPATRICK. Okay. Mr. Chairman, I yield back.

Chairman SMITH. Thank you, Representative, and I recognize the gentlelady from New York, Ms. Tenney.

Ms. TENNEY. Thank you, Mr. Chairman, and thank you to our witnesses. I really appreciate you drilling down on these numbers.

I am actually a small business owner in upstate New York. Our business is in our 77th year, and we were greatly impacted, and been continually impacted, like all of our friends in business in New York by unemployment insurance, by the mismanagement of New York through a series of governors here, and by—and I think it is fantastic that the chairman is doing a much-needed look into this, and having you gentlemen with your expertise here to do this.

And, you know, our taxpayers, our employers, our employees have paid the price for this fraud. And I just thought, you know, there are so many numbers being thrown out here, and since, you know, one of my favorite authors was Mark Twain, he made a famous statement I am sure all of you in the accounting business knows. There are three kinds of lies: lies, damned lies, and statistics. Thank you, Mark Twain, who is buried in New York State, for that.

But there are a lot of numbers being thrown around. And I refer initially to the comments from the ranking member about the unemployment. And sometimes these are misleading. There is economic hardship right now in New York State. And you would think that, you know, with 3.7 percent, that 96.3 percent of the rest of the country are all working, which—we know that is not how the numbers are calculated. So that is why we need to drill into these statistics.

But one of the things I wanted to talk about is the recent findings from the GAO. And I am going to address my first question to you, Mr. Dodaro, is that there was an estimate of fraud and—and, you know, you have answered this—$60 billion, with some outside experts going as high as $400 billion. We have heard $180 billion.

But the New York fraud alone is estimated at about $11 billion, and that is for fraudulent unemployment benefits since March 2020. In fact, the survey I conducted among my constituents and employers was that countless cases of individuals have received unemployment forms they hadn't requested, they have dealt with—these—they have dealt with these ramifications without having

any verification. The payments were made, there was no look back to the employers as to whether these people were actually employed, and many of them were actually my family members, who were still gainfully employed. And so, many of these problems continue to persist in New York. And I thank you for calling out New York for some of their systems.

But on top of that, the—New York State has an outstanding trust fund loan of nearly $8 billion, which it has yet to repay. Because of this gross mismanagement by the state, taxpayers, small businesses now have to make up that difference. And this has been devastating to especially the smaller employers, especially restaurants forced to close during the pandemic.

And after all these hardships for the past couple of years, I just wonder how it could possibly be fair to now foist this tab for this negligence and incompetence, as you pointed out, on New York taxpayers, on our employers who can really—really cannot afford to keep this, and so many of them have closed.

So, I wanted to follow up with you on how—I want to make sure that our Federal policies are no longer allowing this reckless behavior by irresponsible governments like New York State, which you keep pointing out. And I know that my colleague from—Mr. Higgins mentioned this, and alluded to this, as well. But my question to you is that—is there a recommendation from the GAO, the Government Accounting Office, issued to the Department of Labor that has not been implemented that would address these concerns?

And is there a mechanism to compel New York to prioritize repaying this $8 billion of unemployment insurance loans, outside of, say, an automatic increase in the state business taxes, which would make us have even a larger out-migration of people and jobs in our state?

Mr. DODARO. Yes. Well, there is a set of—we have 19 open recommendations to the Department of Labor. Eight of them focus on the fraud areas. The—there is a set that focused on the need to transform the unemployment insurance program itself to make it more effective. That may go to this issue of incentives in the state.

One of the observations that I have had over the years is where we are relying on states to administer Federal programs. There is often a lot of deferential latitude that the Federal Government gives the states to implement the programs. There is not a lot of aggressive Federal oversight that is needed, and it doesn't really come vividly clear until you have these types of circumstances in place.

You know, in good times we rely on the states to take, you know, administer these programs, and give them a lot of flexibility. But there needs to be a better balance between the Federal responsibilities and the states', and the Federal Government has to have additional responsibilities.

Now, the $8 billion, the states are allowed to borrow from the Treasury Department when they run out of money. And then, you are right, it has to be paid back by the employers within the state. So that is left to the states' own devices on how they decide to repay that money back to the Federal Government.

Ms. TENNEY. Well, thank you. Can I just clarify one thing?

The fraud risk assessment framework, is that what you were talking about with the 19 recommendations?

Mr. DODARO. That is eight of them.

Ms. TENNEY. Eight of them, okay.

Mr. DODARO. Eight of the nineteen. The other ones go to the need to transform the whole program to make it much more modern, efficient, and meant to deal with our modern economy.

Ms. TENNEY. Thank you. And please send that message back to the New York State government now to save our employers. We really appreciate that recommendation. It is 13 years ago now since you made that. Thank you.

Chairman SMITH. Thank you, Representative. I would like to point out that your favorite author, Mark Twain, is a good Missourian from the Show-Me State who wrote his life about the Mississippi in our congressional district.

So, I would love to introduce—recognize the gentleman from Michigan, Mr. Kildee.

Mr. KILDEE. Thank you, Mr. Chairman. And to our witnesses, thank you for your participation and your service to our country.

As the nation responded to the coronavirus pandemic, workers and families, as we all recall, so painfully stayed home in order to stay safe and to keep their families safe. Many lost their paychecks and their livelihoods virtually overnight, through no fault of their own. In my home state of Michigan, unemployment rose to 24 percent in April of 2020, just 2 months after former President Trump declared the health emergency.

In response, uninsured—unemployment insurance claims spiked at over 388,000 per week, compared to the previous peak of 77,000 during the Great Recession. That is why, thankfully, Democrats and Republicans jointly acted swiftly to pass bipartisan legislation to get these necessary benefits in the hands of hard-working Americans as soon as they possibly could. Both parties came together to pass and extend these critical benefits through legislation such as the CARES Act.

Now, looking at the continued economic growth that our country has had, these benefits did help millions of people, preventing them from losing everything they have worked for, and precipitating a larger crisis. The GAO has highlighted that these payments helped keep our economy afloat and improve the labor market. Unemployment insurance kept money in people's pockets, and prevented our country from falling into much deeper economic demise.

Now, some have argued that these benefits disincentivized workers and caused—are causing the labor shortage, despite the fact that benefits expired in September of 2021. The latest jobs report, obviously, would indicate otherwise.

In February of 2023, the Department of Labor reported that unemployment was at 3.4 percent, the lowest since 1969. And I recognize the distinction when it comes to labor participation rates, but you just have to look at the data and see that labor participation rates are really less than a point off where they were three years ago, at what many would have considered to be peak economic activity.

Now, the economy grew at 2.9 percent last quarter, more than 12 million new jobs created in just the last 2 years. Not only were

these benefits good for the economy, they were a lifeline for workers when they most needed it. People were worried about putting food on the table, keeping a roof over their head, paying for basics like medicine.

I would like to just mention, you know, these are human stories. My own constituents benefited from these important benefits supported, again, by both sides of the aisle. Cathy and Timothy from Flint told me that the payments were hugely impactful. Timothy was a musician at weddings and festivals and corporate events. Cathy's job in health insurance, they were able to provide and care for their oldest daughter as a result of these benefits. Timothy often worked nights to make sure that he did not have to hire a caregiver.

These benefits made a difference. People like Carla in Bay City, a self-employed cosmetologist, but due to the pandemic she lost her main source of income. Without these benefits, she would have been in a very difficult position, would have lost everything she has worked for.

Those are just a couple of the instances. And of course, we all know, all of us have had literally thousands of these cases come before us.

No one, I think, ever should indicate that we think this system worked perfectly. We know of these difficulties. We know of the problems, and they are real, and they are serious, and absolutely have to be addressed. But I do think it is important that we not fall into the trap of somehow conflating the bipartisan decision that we all made to make sure that these benefits were quickly delivered to people at a time when, in order to protect themselves, they had to stay at home.

Now, there is a debate in some revisionist history about just how difficult those moments were. We didn't know what the future was going to be. Fast forward, a million Americans died. It would have been millions more, had we not allowed people to make the decisions that they needed to do to protect themselves without having to lose everything that they have worked for.

So, let's pledge that we will work to fix these problems. Let's pledge that we can come together to try to address these issues of fraud. The money was stolen not just from the taxpayers, but actually from needed help to additional workers. We need to go after this. But let's not mistake—make the mistake of somehow deciding we never should have done this in the first place, we never should have supplied this help. We certainly should have. And now we need to do what we can to make sure that we can reclaim the integrity and the aspects of the program that actually failed.

So, with that, Mr. Chairman, thanks for holding this hearing. I yield back.

Chairman SMITH. Thank you, Representative. I recognize the gentlelady from the State of Minnesota, Mrs. Fischbach.

Mrs. FISCHBACH. The desks are so big, it is hard to reach. But thank you, Mr. Chair.

And I just think Mr. Kildee had said a couple of the things about the dollars being stolen from the taxpayers, from the hard-working taxpayers. You know, and I think it bears saying it again and again, where that money is coming from, because I think the—

Chair Smith had talked about, you know, the hard-working families that this—these money came from, and I think it is important that we remember that while we are having these discussions.

But I just wanted to, you know, ask a little bit. Mr. Turner, your testimony notes that DoL provided $1.3 billion for states for UI modernization, including IT modernization, and of the funds spent, however, states did not always take advantage of the opportunity to modernize their IT systems. Is that correct?

Mr. TURNER. That is correct.

Mrs. FISCHBACH. And do you know why that is, why they didn't take advantage of it?

Mr. TURNER. In some cases, it was reported that some of these systems were so old that they did not really mesh well with the CARES Act in some cases. But the states that did use it showed benefit from doing so.

Mrs. FISCHBACH. Well, so is there something more that we can use?

I mean, so those dollars are still sitting there?

Mr. TURNER. Yes, yes, those dollars are still there. And let me just share with you. During the Recovery Act, there was $7 billion that was dedicated for modernization, IT modernization. And of that, there was about two billion that was used for something other than that. And it was allowed at that time. But it just shows you just, for some reason, it has not been a priority for states when it comes to modernization. And that is one of the reasons that we have paid the price that we have.

Mrs. FISCHBACH. So is—do you think there is anything that we can do to encourage them to use those dollars so that we do modernize those?

Mr. TURNER. Well, I think one of the things the Department is doing is with performance measures they are using and keeping it as part of their top priorities.

But I think just more emphasis on that, and continued emphasis will make a difference.

Mrs. FISCHBACH. Is there anything in—that is attached to that money that would prevent them from using it now?

I mean—or is it going to be taken back, or——

Mr. TURNER. Well, some of that—well, first of all, they have established an IT modernization office. And I think part of that is going to help them provide the oversight that is needed by the Department.

Mrs. FISCHBACH. Okay, all right. All right. Well, thank you very much.

I also wanted to touch base with Mr. Dodaro about the—you have got 10 points. And I know that we have talked a little bit about the legislation—or at least the proposals that you had, and I looked over the 10 issues you had for congressional consideration. And I am just wondering if you wanted to expand a little bit, but—on some of those.

But the other issue I—if these had been enacted, what kind of reduction to the fraud do you think would have happened?

I mean, would they have had a direct result of stopping some of that?

Mr. DODARO. If effectively implemented, they would have had a material effect. I don't know exact—I can't put a number on it.

But for example, the one recommendation that the improper payment estimate be made in the first year of the program, the PPP program didn't estimate improper payments until 2022. The pandemic unemployment insurance program still hasn't. Even though it has ended, it still doesn't have an improper payment estimate. If you had had estimates earlier, you would have been able to take more forceful actions, and put things in place, and compelled the states to focus on those issues earlier.

You know, the anti-fraud strategy that we have in place in the Paycheck Protection Program, they didn't designate an anti-fraud dedicated entity until February 2022, when the program was almost finished. They didn't do a fraud risk assessment until well into 2021, almost the end of the 2021. The Labor Department still hasn't implemented the anti-fraud recommendations that we have to them.

So, a lot of these things would have had a good effect, had they been put in place. That is why we are urging Congress to pass these legislative improvements.

But I would say also to this committee that, unless there is sustained leadership attention at the Labor Department and effective working relationships with the states combined, combined with strong congressional oversight, these reforms won't be effectively implemented.

Mrs. FISCHBACH. Thank you very much.

Oh, and Mr. Horowitz, you had something?

Mr. HOROWITZ. Can I add on to that? It not only would involve fraud prevention, but you would have better delivery of service to the people who are entitled to the benefits, more prompt payment, reduction in identity theft—think about how many people are dealing with identity theft issues now, as a result. All of those cascades from improving IT modernization, taking the steps that GAO has recommended.

Mrs. FISCHBACH. Thank you very much.

And I have eight seconds. I will—or I went over, so I yield back. Thank you.

Chairman SMITH. Thank you, Representative. I recognize the gentleman from Utah, Mr. Moore.

Mr. MOORE of Utah. Thank you, Chairman and Ranking Member. The work here we are doing is very important, and I believe our dialogue, while some differences, really has shone a spotlight on our joint concern about fraud, right?

And I appreciate, more importantly, the witnesses—we have all gotten the chance to get up and take a few meetings and a few breaks—for sticking it out for a very long hearing. So, thank you for that.

Fortunately, so for some positive here, there are lessons that we can learn from states that have managed this very well. In Utah, where I represent, fraud overpayments represented less than one percent of benefits paid. I am incredibly proud of the work done by our former governor, Gary Herbert, Governor Spencer Cox, their administrations, and the Utah state legislature to create systems

and processes that protect taxpayer dollars. That is our most sacred responsibility, I believe, back here in this Federal role.

And Congresswoman Spanberger and I have introduced the Preventing Improper Payments Act, and—which we prepared following an excellent study by the GAO about how we can safeguard taxpayer dollars and prevent more waste, fraud, and abuse in the future.

Mr. Chairman, I would like to submit for the record a report from the Pandemic Response Accountability Committee called Pandemic Unemployment: How Much Has Been Paid to Fraudsters.

Chairman SMITH. Without objection.

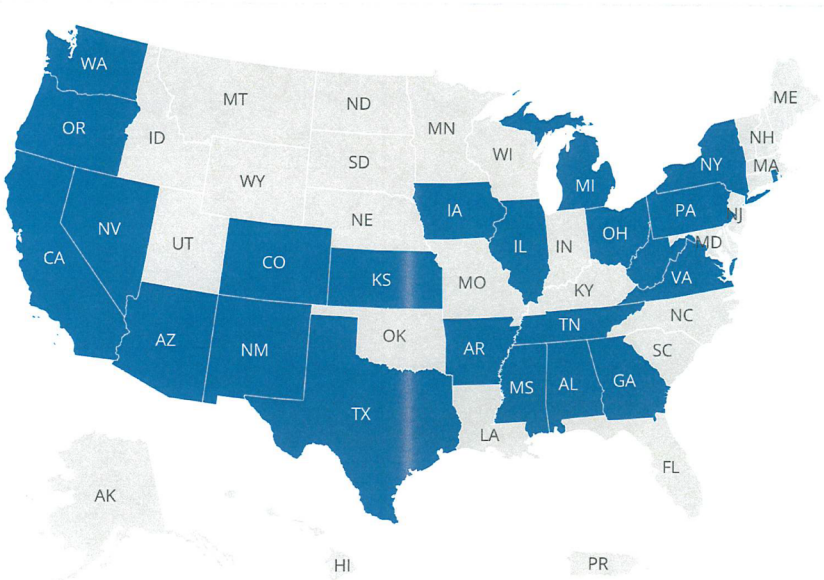
[The information follows:]

Pandemic Oversight
Making sense of COVID-19 relief spending and programs

Information

Fighting
Identity
Theft

ıount of fraud is unknown, since April 2021, 23 states have r
raud by state on the map below and check back for updates as more states issue estim



Sources

Notes about the data

There are many caveats that the public should be aware of when looking at data on pandemic-related unemployment insurance fraud. For example:

1) Fraud is often used interchangeably with the term "improper payments," but fraud is simply a type of improper payment. For example, an accidental overpayment by an agency to an otherwise eligible recipient is another type of improper payment. Where possible, we collected data only on improper payments related to fraud.

2) The data on this page comes from reports from state oversight entities or comments from state workforce agency leaders during interviews or testimony. The timeframes for the estimates vary by state and will likely change as more oversight work is completed. Fraudulent payments can also be recovered, so it's possible that some states have recovered, or plan to recover, some of the amounts reported.

3) Where possible, we have included fraud estimates from the new federal UI programs. However, in some cases the data may include estimates of fraud found in a state's traditional UI program.

4) The Arkansas UI fraud total comes from both the 2021 Single Audit report and 2022 Single Audit report from the Arkansas Legislative Auditor.

Page last modified: 08/01/2023

Mr. MOORE of Utah. Thank you. This report is yet another demonstration of how much we don't know about the size and scope of this fraud.

Many states have produced separate reviews on their own UI programs, and these reviews have sometimes included individual state estimates of fraud and improper payments, and up to 21 states—this report tracked 21 states have reported approximately $58 billion in fraud estimates across these programs. And that is information that we have from less than—again, less than—half of the states. So if state auditors are coming up with those large numbers, I do believe that the national estimate of $60 billion GAO reported is quite low.

Mr. Horowitz, I have a question for you. In these state reports, do we know how much of the funding identified as improper payments or fraud was Federal dollars?

Mr. HOROWITZ. So, for several of the pandemic programs, it is Federal dollars that flowed to the states. There were other parts of legislation enacted that were to fund and to support already-existing state programs. So, most of it is going to be Federal money. Some of it could be mixed in with state money. And, as you indicated, what we found was that the work of the state auditors was critical to this effort, but states were calculating fraud numbers in different ways.

So, I would have—we would have to go through state by state to break that down.

Mr. MOORE of Utah. Yes, excellent. My—the gentleman from Oklahoma highlighted something that I think Utahns feel a lot of times. We try to run things as responsible as we possibly can. I know there is a good faith estimate from a lot, but we do, Utahns often times feel like why, if we are being so responsible and have the data to show some of this, why can't other states figure this out? It is a continual frustration, and it is something that I hope to represent and shine a light on.

My estimation—my understanding was that approximately 76 percent was Federal dollars. So, we are talking a total of close to close to $700 billion. I mean, these are sizable numbers. These are deficit-reducing opportunities for us, which is a huge responsibility of this committee, is to be able to find ways to reduce deficits. There is significant bipartisan opportunity, and we hope to be able to do that with this. We will keep working on it.

Do you get a sense how—to what level are you confident that states are going after this money and recovering it?

Mr. HOROWITZ. I think a lot of the dialogue has moved in a positive direction over the last several years, from the state workforce agencies in particular. We are seeing a lot more effort to work together to do the kind of cross-border work that needs to get done, and interactions with state auditors because they are so central to this process, and important.

Mr. MOORE of Utah. And the Department of Labor's role, where would you—how would you describe, or kind of like—I want to make sure that they do their role as much as possible.

Mr. HOROWITZ. So, I am going to defer to the IG there on that.

Mr. MOORE of Utah. Please.

Mr. TURNER. Repeat the question, please.

Mr. MOORE of Utah. Just to what extent would you put the Department of Labor responsible and involved in making sure that states can go after and recover as much of these funds as possible?

Mr. TURNER. Oh, they are very responsible and involved.

I think one of the things that they began to take advantage of is what we have kind of requested before, that people get more data access to IG, OIG. And once that began to happen, we began to see some improvement.

Mr. MOORE of Utah. Excellent. There is another quick question to Mr. Turner, actually, about entrepreneurs, and they were at risk of being targeted quite a bit for some of this fraud. And we want to make sure that we are protecting that side of it, and making sure that those that are honest, doing the work that they need to do, that they have that capability.

Are there any measures you recommend to help implement—to prevent fraud without penalizing these entrepreneurs?

Mr. TURNER. Well, I will be a little premature in speaking to that now, because we actually have work going on to take a look at that. And then I should be able to provide the committee something in the future.

Mr. MOORE of Utah. The whole point of this is to make sure we do this better, we shine the light, and keep working on it. So, thank you for your time.

Chairman SMITH. Thank you, Representative. I recognize the gentleman from Virginia, Mr. Beyer.

Mr. BEYER. Mr. Chairman, thank you very much, and thank you for holding this hearing.

Thank you for hanging in there.

I am so glad that we are holding a hearing on the unemployment system, which has long been neglected and underfunded by Federal and state policymakers. I can tell you that, like many of the colleagues here, at the height of the pandemic that is all we did was chase down unemployment insurance claims.

I think—you know, and every story was distressing. Each one was grimly similar, that the enhanced UI payments were literally the only thing that allowed ordinary Americans who lost their work through no fault of their own to pay their bills, to buy groceries, to support their families.

We had myriad constituent cases, I think well over 1,000 just in the first couple of months, that we are wrestling with in Virginia with an antiquated and over-burdened state employment commission, and it just emphasized to me how important it was to have a program like this in a time of crisis.

At the time, I was chairman of the Joint Economic Committee, a bipartisan, bicameral—a great honor. And one of the things we did was talk to the smartest economists across the board, Democrat, Republican, you know, conservative, liberal about what to do. And everyone started with the unemployment insurance system and the enhanced unemployment. It became really clear that this work was essential to the recovery.

You know, you have heard, I am sure, through many different witnesses that no other country in the world has recovered as quickly from the pandemic economically, as we, with still have a ways to go.

UI kept millions of Americans out of poverty, it saved countless jobs, and prevented home foreclosures, which obviously destroyed us in 2008 and 2009, and has set the stage for this historically low unemployment, 54 years, steady GDP growth and, although there is still a ways to go, slowing inflation.

Every Thursday at 5:00, the governor of Virginia held a conference call with all the Democratic and Republican members of the Virginia delegation. So, Morgan Griffith from southwest Virginia to Tim Kaine. And we each got our three or four minutes with the governor. And virtually every conversation was about the broken UI system. And he would have to explain that, in Richmond, the software was from 1980, the codes were—nobody knew anymore, and the hardware was from 1980, and that they were doing the best they could with—but they had not—you know, in January of 2020 they hadn't expected the incredible deluge that they had.

So right away, we tried to go to work and say, look, let's—as we are handing money out, let's make sure that we are giving a lot of money to the states, Democratic and Republican-led states, to invest in their UI systems, so that if this ever happens again, we can be ready.

So, Mr. Turner, a softball question. Would investing in highly trained state UI staff and better computer systems help prevent the fraud that we were talking about today, and ensure that the benefits are paid on time?

Mr. TURNER. No doubt about it. That is something that we have included in our recommendations in the past.

Mr. BEYER. That is a very short answer, thank you. [Laughter.]

Mr. BEYER. That is about the shortest I have heard in my four years on the Ways and Means.

Mr. Horowitz, a similar question. And you mentioned that multiple states experienced issues verifying eligibility for benefits. That was a huge one for us. People would be ruled ineligible, and that would take them weeks or months to be able to prove their eligibility, and long delays because of that.

One of the things we provided in the American Rescue Plan, which half of us like, was upgrading antiquated state UI computer systems. How important is that investment for the fraud that we are talking about?

Mr. HOROWITZ. It is critical. The states, as you indicated, the situation with Virginia, it is not alone. It is a problem across the country. States need to upgrade their IT systems.

We have moved light years in just the last several years on the ability to do verification, identity verification. And so, systems has to—have to catch up.

Mr. BEYER. Great, great. Well, I still have a minute left, which I will yield back.

And I want to thank you for showing up, and for helping us get our hands around this, balancing both the need to preserve every possible taxpayer dollar from fraud, but also making sure that we are supporting the American citizens who look to us.

Mr. Chairman, I yield back.

Chairman SMITH. Thank you, Representative. I recognize the gentlelady from the State of California, Mrs. Steel.

Mrs. STEEL. Thank you, Mr. Chairman, and I want to thank the witnesses for being here today, and all—for all the work you have done to shine a spotlight on this important issue. Today's hearing is about fraud, and this lost funds actually came from hard-working taxpayers, and it should not happen again.

Last Congress I led an effort to recover funds, prevent fraud, and support the victims of unemployment fraud and identity theft. Along with Speaker McCarthy I introduced the Pandemic Unemployment Assistance Fraud Protection Act. My bill would create an incentive structure to encourage states to recover fraudulent unemployment payments, require states to revamp and improve fraud prevention efforts in the unemployment program, and include necessary protection for victims, those innocent taxpayers who receive 1099K without receiving these employment payments—unemployment benefits fraud.

My constituents, Californians, and Americans who actually need unemployment assistance should be the ones who receive it, not criminals.

California was one of the biggest targets for this fraud. The State of California Legislative Analysis Office reported that $18.7 billion, 94 percent of unemployment insurance benefit fraud, may have occurred in the federally funded unemployment program. An estimated $20 billion in potentially fraudulent unemployment payments are still under investigation.

Mr. Chairman, I would like to submit for the record for—a report by California State Auditor issued in January 2021.

Chairman SMITH. Without objection.

[The information follows:]

Congress of the United States
Washington, DC 20515

February 5, 2021

The Honorable Gavin Newsom
Governor
State of California
1303 10th Street, Suite 1173
Sacramento, California 95814

The Honorable Xavier Becerra
Attorney General
State of California
1300 I Street
Sacramento, California 95814

The Honorable Julie Su
Secretary
California Labor & Workforce Development Agency
800 Capitol Mall, Suite 5000
Sacramento, California 95814

Rita Saenz
Director
California Employment Development Department
722 Capitol Mall, Suite 5098
Sacramento, California 95814

Dear Governor Newsom, Attorney General Becerra, Secretary Su, and Director Saenz:

We are writing to express our strong concern regarding fraudulent COVID-related unemployment assistance payments made by the State of California and uncovered in a recent audit.

As you are aware, in response to the economic challenges presented by COVID, Congress has provided federal funding to states to help support the availability of unemployment assistance to individuals laid off as a result of this pandemic. Last year, Congress funded a new program called Pandemic Unemployment Assistance (PUA), which was designed to provide unemployment assistance to individuals who typically would not be eligible for unemployment benefits, such as gig workers, independent contractors, or self-employed individuals.

The California Employment Development Department (EDD) recently confirmed that it has paid out fraudulent unemployment assistance claims totaling over $11.4 billion, mostly through the new PUA program, and an estimated $20 billion in unemployment assistance payments are still under investigation. In an attempt to reduce fraud, on December 31, 2020, the EDD suspended the processing of roughly 1.4 million unemployment assistance claims in order to verify the identities of claim applicants. This action was taken with no warning and there has been little follow-up clarification on which unemployment assistance claims were found to be fraudulent and which were legitimate, nor how EDD is making such determinations. In addition, the EDD has recently confirmed that the backlog of Californians who are still waiting for their unemployment assistance claims to be processed remains at roughly 900,000 individuals.

Let us be clear - the mismanagement of taxpayer dollars in the amount of $11.4 billion is absolutely unacceptable and the delay in processing Californians' legitimate COVID-related unemployment assistance claims is also absolutely unacceptable.

This is all the more grievous given that the State of California received over $318 million for the administration of all COVID-related unemployment assistance programs and an additional $2.4 million in emergency funding to help the State combat fraudulent COVID-related unemployment assistance claims, in addition to the multiple guidance documents issued by the U.S. Department of Labor to assist states with the administration of these programs. Adding insult to injury, California State Auditor Elaine Howle reported last month in an audit that the federal government warned California multiple times about the threat of fraud, but states California continued "to pay claims despite having evidence that they are very likely fraudulent."

California had the resources to combat rampant fraud in these unemployment assistance programs and appears to have been warned repeatedly about the possibility of fraudulent unemployment assistance payments being made. So, it is unconscionable that Secretary Su would claim that the federal government did not provide adequate resources or funding for the administration of COVID-related unemployment assistance programs – a clear attempt to deflect blame and accountability for these failures from the Newsom Administration.

In addition to the implications that high levels of unemployment assistance fraud in California has for all American taxpayers, we are also concerned about the impacts that this fraud will have on many California taxpayers whose personal information has been stolen by criminals seeking to collect COVID-related unemployment assistance with their identities. Many of these Californians have received or will receive 1099-G tax forms from the IRS at the request of the EDD and will suddenly be responsible for paying taxes on fraudulent unemployment assistance taken out in their names that they never received.

The lack of awareness, or even deliberate ignoring of repeated warnings of fraud, while administering the COVID-related unemployment assistance programs is gravely concerning. This is compounded by the massive claims backlog and the State suddenly suspending processing of many COVID-related unemployment assistance claims, especially given that this aid is not currently in the hands of people who depend on it after being laid off or finding themselves unemployed due to California's ever-changing lockdown and reopening metrics.

Accordingly, we request responses to the following questions:

1. How is the EDD assessing fraudulent COVID-related unemployment assistance claims and what is the State doing to ensure this never happens again?
2. How many individuals falsified identities and illegally received COVID-related unemployment assistance benefits?
3. How does California plan to recover the over $11 billion in fraudulent COVID-related unemployment assistance benefit payments made by the EDD?
4. As Congress continues to debate additional pandemic relief, how is the State ensuring that future COVID-related unemployment assistance benefits only go to qualified

individuals and not local bad actors, criminals, prisoners, or international criminal enterprises?

5. What plan does California have in place to provide individuals who are victims of identity theft and had unemployment assistance benefits fraudulently issued in their names with the support and resources to obtain corrected 1099-G forms?
6. When will California citizens, who are legally entitled to legitimate COVID-related unemployment assistance benefits but are still waiting to receive them, be issued said payments?

As California faces daunting challenges due to COVID, it is critical that Californians can trust their state government to effectively administer integral unemployment assistance programs, including those created by the CARES Act, which are traditionally administered by the states. Without any accountability mechanisms in place or plan to recover fraudulent COVID-related unemployment assistance payments, we fear that there will be a continued decline in taxpayers' faith in California's ability to administer other critical pandemic relief programs, such as vaccine distribution. Federal and California taxpayers deserve answers to our questions, assurances that their tax dollars will not continue to be wasted, and to be reimbursed for the $11.4 billion the State of California has lost.

It is our hope the Newsom Administration will not continue to abuse American taxpayer dollars – our constituents' tax dollars – through continued failure to administer COVID-related unemployment assistance programs and failure to recoup fraudulent unemployment assistance payments made by the EDD. If the Newsom Administration fails to act, you can be assured that we will.

Thank you for your attention to this matter. We look forward to your timely response.

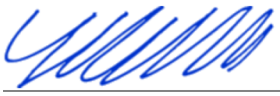
Sincerely,

MICHELLE STEEL
Member of Congress

KEVIN McCARTHY
House Republican Leader

DAVID VALADAO
Member of Congress

DEVIN NUNES
Member of Congress



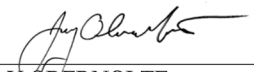
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Member of Congress



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Member of Congress



DOUG LaMALFA
Member of Congress



JAY OBERNOLTE
Member of Congress



TOM McCLINTOCK
Member of Congress



YOUNG KIM
Member of Congress



DARRELL ISSA
Member of Congress

Employment Development Department

Significant Weaknesses in EDD's Approach to Fraud Prevention Have Led to Billions of Dollars in Improper Benefit Payments

January 2021

REPORT 2020-628.2



CALIFORNIA STATE AUDITOR
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Elaine M. Howle *State Auditor*

January 28, 2021
2020-628.2

The Governor of California
President pro Tempore of the Senate
Speaker of the Assembly
State Capitol
Sacramento, CA 95814

Dear Governor and Legislative Leaders:

As authorized by state law, my office presents the results of our high risk audit concerning the Employment Development Department's (EDD) management of federal funds related to the COVID-19 pandemic. EDD administers California's unemployment insurance (UI) program and received a significant amount of federal funding in response to the COVID-19 pandemic and related federal expansion of UI benefits. The following report details our conclusion that significant weaknesses in EDD's approach to fraud prevention have led to billions of dollars in improper benefit payments.

EDD did not take substantive action to bolster its fraud detection efforts for its UI program until months into the pandemic, resulting in payments of about $10.4 billion for claims that it has since determined may be fraudulent because it cannot verify the claimants' identities. Specifically, EDD waited about four months to automate a key anti-fraud measure, took incomplete action against claims filed from suspicious addresses, and removed a key safeguard against improper payments without fully understanding the significance of the safeguard.

Further, EDD's lack of preparation left it unable to manage two important fraud-related situations that arose during its 2020 pandemic response. In September 2020, because of fraud concerns, EDD directed Bank of America to freeze 344,000 debit cards (accounts) that it used to provide benefit payments to claimants. However, EDD did not have a plan in place to ensure that it could unfreeze those accounts found to belong to legitimate claimants, and it has been slow to acknowledge its role in freezing these accounts. EDD was also unprepared to prevent payment of fraudulent claims filed under the names of incarcerated individuals, the total of which is an estimated $810 million. Because it had not developed the capacity to regularly match data from its claims system with data from state and local correctional facilities, EDD did not detect fraudulent claims until after it had paid them.

EDD has put its UI program at higher risk for such fraudulent payments by relying on uninformed and disjointed techniques to prevent and detect impostor fraud. For example, EDD has not established a centralized unit that is responsible for managing its fraud prevention and detection efforts, and it does not monitor or assess its numerous fraud prevention and detection tools to determine whether they are successful. Consequently, EDD may be using ineffective fraud prevention and detection techniques, which can delay payments to legitimate claimants while it puts their claims through additional and unmerited review.

Respectfully submitted,

Elaine M. Howle

ELAINE M. HOWLE, CPA
California State Auditor

Selected Abbreviations Used in This Report

CARES	Coronavirus Aid, Relief, and Economic Security
CDCR	California Department of Corrections and Rehabilitation
EDD	Employment Development Department
GAO	Government Accountability Office
PUA	Pandemic unemployment assistance
SSNs	Social Security numbers
UI	Unemployment insurance

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SUMMARY

The Employment Development Department (EDD) is responsible for administering the State's unemployment insurance (UI) program, which provides partial wage replacement benefits to eligible Californians who have become unemployed, including those affected by the COVID-19 pandemic (pandemic). Since the surge in pandemic-related California unemployment claims began in March 2020, individuals, news organizations, and law enforcement officials have reported many cases of potential and actual UI fraud. Not surprisingly, the pandemic conditions increased EDD's UI workloads and also resulted in changes to federal UI benefit programs, both of which have created a greater risk of fraud. We assessed EDD's response to increased fraud risk during the pandemic—such as allegations of impostor fraud, which occurs when a perpetrator uses someone else's personal information to fraudulently collect benefits—and evaluated its overall efforts to detect fraud. This report draws the following conclusions:

EDD's Fraud Prevention Approach During the Pandemic Was Marked by Significant Missteps and Inaction

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EDD did not take action to bolster its fraud detection efforts until months into the pandemic. As a result, its data show that it paid about $10.4 billion in claims that it has since determined may be fraudulent. Even as late as December 2020, EDD was allowing claimants to continue to collect benefits using suspicious addresses because it did not establish payment blocks for their claims. Further, $1 billion of the $10.4 billion paid for suspicious claims was the result of EDD's decision to remove a key safeguard against payment to claimants whose identities it had not confirmed. EDD staff misunderstood the importance of that particular safeguard and, from April to August 2020, made payments to claimants despite concerns about the legitimacy of their identities.

EDD's Lack of Preparation Left it Unable to Effectively Address Two High-Profile Situations

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Because of fraud concerns, EDD directed Bank of America to freeze 344,000 debit cards (accounts) that it uses to provide claimants with benefit payments. However, EDD did not have a plan to ensure that it could selectively unfreeze accounts belonging to legitimate claimants, has been slow to provide clear information about its role in freezing these accounts, and does not have a full understanding of which accounts are frozen. Additionally, EDD was unprepared to prevent payment for fraudulent claims filed under the names of incarcerated individuals—which it estimated to total about $810 million. EDD had

told the Legislature for years that it was considering adopting a cross-match between claim and incarceration data. However, because it had not developed the capacity to match data between its claims system and the data from state and local correctional facilities, it did not detect these fraudulent claims until after the fact.

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EDD Has Relied on Uninformed and Disjointed Techniques to Prevent Impostor Fraud

EDD has not established a centralized unit that is responsible for managing its fraud detection efforts, and it does not reliably track potential fraudulent activity from detection to resolution. As a result, EDD's UI program is at a higher risk for fraud. Further, it does not monitor or assess its numerous fraud prevention and detection tools to determine whether they are successful in mitigating fraud. Consequently, EDD may well be using ineffective fraud prevention and detection techniques and delaying payments to legitimate claimants while it puts their claims through additional and unmerited review.

Summary of Recommendations

Legislature

To protect against fraudulent UI claims, the Legislature should amend state law to require EDD to regularly cross-match its claims against data from state and local correctional facilities.

To ensure that EDD effectively protects the integrity of the UI program, the Legislature should amend state law to require EDD to, by January 2022, and biannually thereafter, assess the effectiveness of its fraud prevention and detection tools, eliminate those that are not effective, and reduce duplication in its efforts.

EDD

To ensure that it does not suspend critical safeguards, EDD should plan in advance which UI fraud prevention and detection mechanisms it can adjust during recessions to effectively balance timely payment with fraud prevention.

To provide timely access to benefits for legitimate UI claimants with frozen accounts, EDD should immediately obtain and review a comprehensive listing of benefit accounts that are frozen and, by March 2021, begin the process of unfreezing legitimate accounts.

To ensure that it can approach UI fraud prevention in a comprehensive and coordinated manner, EDD should do the following:

- By March 2021, establish a central unit responsible for coordinating all fraud prevention and detection efforts.
- By May 2021, develop a plan for how it will assess the effectiveness of its fraud prevention and detection tools.

Agency Comments

EDD stated that it undeniably struggled to timely distribute benefits to the millions of newly unemployed Californians and simultaneously prevent fraudulent claims. It agreed with all of our recommendations and indicated that it will implement them all.

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INTRODUCTION

Background

The Employment Development Department (EDD) is responsible for administering the State's unemployment insurance (UI) program, which provides partial wage replacement benefits to eligible Californians who have become unemployed. In general, individuals who claim these monetary benefits (claimants) must meet certain requirements, such as being unemployed through no fault of their own and being able and available to work. Claimants must also provide certain information, such as their Social Security numbers (SSNs) and information about their previous employment, including their estimated earnings, which can help EDD ensure that it issues proper benefit payments to the correct individuals.

The benefit payments that EDD administers are subject to two main types of potential fraud: benefit fraud and impostor fraud. Benefit fraud can occur when individuals misreport their earnings or employment information under their own identity. For example, individuals may establish legitimate UI claims using their own personal information but then fail to report that they returned to work, fraudulently continuing to collect UI benefits. EDD has several methods for detecting benefit fraud and, in general, this type of fraud is easiest to trace to a specific individual because the person filing the fraudulent claim benefits from it. As we detailed in an earlier report about EDD, in March 2020 it indefinitely postponed most of its required UI eligibility determinations, which has likely increased the UI program's vulnerability to benefit fraud during the COVID-19 pandemic (pandemic).[1] As we discuss later in the Introduction, the pandemic-related benefits also increased EDD's risk of the second type of fraud: impostor fraud, which occurs when a perpetrator uses someone else's personal information to collect UI benefits.

EDD Has Several Divisions and Offices That Undertake Fraud Detection Efforts

- **Investigation Division, Criminal Intelligence Unit:** Manages fraud reports submitted by UI staff, by the public, by law enforcement, by state and federal agencies, by the Governor or Legislature, and by others; oversees EDD's fraud hotline.
- **Investigation Division, Enforcement Operations Units:** Investigate egregious and costly cases of fraud and may pursue criminal charges against impostors.
- **UI Support Division, Integrity and Legislation Unit:** Manages a fraud report mailbox and initiates the identity verification process for certain claims.
- **UI Integrity and Accounting Division, Identity Verification and Technical Support Section:** Verifies claimant identities when potential fraud or other identity issues have been detected.
- **UI Integrity and Accounting Division, Benefit Overpayment Section:** Performs daily, weekly, and quarterly matches between employer data and UI benefit claims to detect improper payments and potential fraud.
- **UI Integrity and Accounting Division, Benefit Claims Section:** Assigns new unique identifiers to potentially fraudulent claims to reduce the impact on the true owners of compromised SSNs.
- **Information Technology (IT) Branch:** Facilitates fraud detection efforts through EDD's technical systems, including as directed by other responsible parties.
- **Local field offices:** Report potential fraud and suspicious claims to the fraud report mailbox and initiate the identity verification process for certain claims.

Source: Analysis of EDD roles and responsibilities, EDD documentation, and interviews with EDD staff.

EDD's Fraud Detection Processes

A number of divisions and offices within EDD play a role in its efforts to detect UI fraud, as the text box describes. According to EDD's June 2020 report to the

[1] *EDD's Poor Planning and Ineffective Management Left It Unprepared to Assist Californians Unemployed by COVID-19 Shutdowns*, Report 2020-128/628.1, January 2021.

Legislature on fraud deterrence and detection activities, in 2019 EDD investigated 61 ongoing and new UI fraud cases representing potential fraud payments of around $24.4 million, including 14 cases of UI impostor fraud representing more than $5.5 million paid in fraudulent benefits. EDD also reported more than 110,000 UI overpayments due to fraud—or payments that EDD expected claimants to return to EDD—totaling $116.8 million in UI benefits paid in 2019. EDD further reported that this $116.8 million represented only 2.3 percent of its $4.9 billion benefit payments made in 2019.

One of the key ways that EDD attempts to prevent impostor fraud is by verifying the identities of prospective claimants as a condition to providing benefits, as federal law requires. Historically, this process has included basic automated verifications to ensure that the information that claimants submit to EDD, such as SSNs and driver's license numbers, match the information retained by the U.S. Social Security Administration and California Department of Motor Vehicles. If these verifications detect discrepancies, EDD activates a manual identity verification process to confirm whether the claimant is the true owner of the identity. When it activates the manual identity verification process, EDD's system suspends or stops payments to the affected claim while EDD attempts to verify the claimant's identity. EDD will pay eligible claimants whose identities it confirms for the weeks their payments were paused. This process does not block the claimants' access to UI benefit payments that EDD has already issued. However, in October 2020, EDD introduced a new online identity verification tool, ID.me, as part of its efforts to process claims faster while preventing impostor fraud at the onset of a claim. EDD has indicated that ID.me makes it easier for claimants to verify their identities, reduces the amount of manual work by EDD staff necessary to process claims, and includes more robust protections against impostor fraud.

Reported Cases of UI Fraud During the COVID-19 Pandemic

Since the pandemic began affecting California unemployment rates in March 2020, individuals, news organizations, and law enforcement officials have reported many cases of potential and actual UI impostor fraud. For example, the Beverly Hills Police Department announced in September 2020 that it had arrested 44 individuals responsible for identity theft and EDD fraud and had recovered EDD debit cards containing more than $2.5 million in fraudulently obtained UI benefits. Moreover, in November 2020, we reported that many individuals had received mail from EDD that was addressed to other people, and that this mail may have been the

result of attempts to fraudulently collect UI benefits.[2] For example, an individual who had recently moved into a new home reported receiving more than 65 pieces of mail from EDD addressed to at least 15 different people. The significant amount of mail returned to EDD because it was undeliverable suggests that such cases have likely been widespread. Finally, in a November 2020 letter to the Governor, several district attorneys reported that EDD fraud was occurring in prisons across the State. We discuss this inmate-related fraud later in this report.

Two main factors have made the UI program especially vulnerable to fraud during the pandemic: the sudden and massive increase in UI claims and the significant expansion of eligibility for benefits. After the start of the pandemic and the imposition of the statewide stay-at-home order, California's unemployment rate surged from 4.3 percent in February 2020 to 16.2 percent by April 2020, according to EDD's labor market information. This surge in unemployment created a dramatic increase in the number of UI claims individuals submitted: EDD received nearly 2.4 million UI claims in April 2020, about 13 times as many as it received in April 2019. This massive increase in demand for benefits may have made it harder for EDD to carry out typical fraud detection efforts.

In addition, in late March 2020, the federal government enacted the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), which expanded UI benefits and relaxed some requirements for receiving those benefits. For instance, the CARES Act extended pandemic unemployment assistance (PUA) to certain individuals who were not eligible for regular unemployment benefits, such as individuals who had been self-employed and therefore would not have a third-party employer to report their wages or validate unemployment. Further, the CARES Act added $600 per week to the amount of benefits claimants could otherwise receive under state law between March and July 2020. The U.S. Department of Labor (Department of Labor) has also specified that states must backdate PUA claims to the first week in which claimants became eligible for benefits, which was as early as February 2020—meaning that a larger amount of money was available to claimants because they could receive benefits from many previous weeks before the date that they filed their claims. These factors further contributed to the heightened risk of fraud, since impostors had opportunities to earn more benefits without providing verifiable information about their work histories.

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2 *Follow-Up—Employment Development Department: Since the COVID-19 Pandemic It Continues to Mail Documents Containing Social Security Numbers and Put Californians at Risk of Identity Theft*, Report 2020-502, November 2020.

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EDD's Fraud Prevention Approach During the Pandemic Was Marked by Significant Missteps and Inaction

Key Points

- EDD failed to take fast enough action at the beginning of the pandemic to bolster its UI fraud detection efforts. As a result, from March through December 2020, out of $111 billion in UI benefits, EDD paid about $10.4 billion on claims that it later determined might be fraudulent.
- EDD paid $1 billion of the $10.4 billion in part due to a problematic decision to streamline its processes by removing a safeguard against paying individuals with unconfirmed identities. EDD issued payments to those claimants with unconfirmed identities before discovering it had inadvertently removed the safeguard for more than a four-month period.
- EDD faces an impending workload to assist the victims of identity theft whose personal information was used to file fraudulent claims. Given the high levels of potentially fraudulent claims and its processes for addressing them, EDD is underprepared to handle this work.

EDD's Failure to Act Promptly to Reduce Fraud Resulted in About $10.4 Billion in Potentially Fraudulent UI Benefit Payments During the Pandemic

EDD's data show that out of a total $111 billion paid during the pandemic, from March 2020 through December 2020, it paid about $10.4 billion for claims that it has since determined could be fraudulent. These payments happened despite warnings from the U.S. Department of Labor (Department of Labor) to states at least twice in the early months of the pandemic that it had not relaxed its expectations related to fraud prevention in light of the pandemic. First, in its April 2020 instructions for implementing and operating the PUA program, it reminded states that they were required to take reasonable and customary precautions to deter and detect fraud, such as conducting a random audit of a sample of claims. Then, in May 2020, it issued another letter to remind states of their need to ensure the integrity of the UI program. This letter advised that states should perform essential ongoing reviews meant to detect improper payments throughout the UI program, including new benefits that the federal government had established in March 2020. Also in May 2020, when it requested data from EDD to identify fraud trends, the Department of Labor's Office of the Inspector General warned EDD that California was likely to see at least $1.2 billion in potential fraud based on the 2.9 million new claims that EDD had received in March and April 2020.

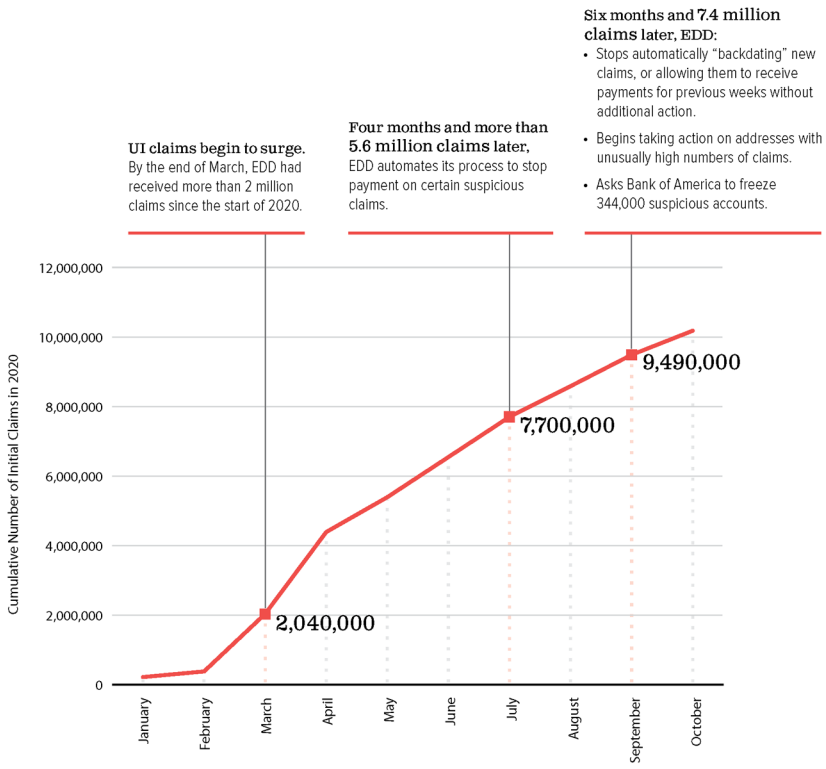
Despite these repeated warnings, EDD did not take prompt action to enhance safeguards against illegitimate benefit payments. As Figure 1 shows, EDD did not make any substantive changes to its fraud detection practices until late July 2020—four months after the pandemic-related shutdowns led to a surge in UI claims. That July 2020 change automated EDD's process for stopping payment on claims that EDD believed were suspicious. Previously, EDD's staff needed to perform a manual review of daily reports of thousands of possibly

fraudulent claims and manually stop payment on each. Because it delayed this automation, EDD likely allowed fraudulent claimants to collect benefits through the first four months of the pandemic. For example, we reviewed the reports from just two days each of April, May, and June 2020 and found that these reports had identified more than 1,000 claims as suspicious or potentially fraudulent on each of these days. EDD asserted that two staff members were responsible for reviewing these reports each day and stopping payment by initiating the identity verification process for all current claims that this report identified as suspicious. However, EDD's reliance on this manual process gave claimants the opportunity to collect UI benefits before staff were able to stop payment on the claims. Given that these reports can contain more than a thousand claims each day, EDD may have allowed many more fraudulent claims to collect payments without impediment before it automated this process.

EDD delayed responding to instances in which an unusually high number of claims under different names were filed from a single address.

Additionally, EDD delayed responding to instances in which an unusually high number of claims under different names were filed from a single address, despite having substantial evidence that fraudsters were using this approach to defraud the UI program during the pandemic. According to EDD, multiple claims from the same address, such as a vacant building or house, can be a sign that fraudsters are trying to intercept or gather the mail associated with this address. However, EDD did not identify suspicious addresses associated with these claims until September 2020. Further, at that time EDD performed two separate analyses of the suspicious address issue, it took action on only a portion of the cases it identified. One of its assessments identified 26,000 suspect addresses that were associated with a total of more than 555,000 claims. However, EDD stated that it did not stop payment on all of these claims because it considered this list informational. Rather, it performed another assessment to determine addresses that may have been associated with fraudulent claims, which identified only 10,000 suspicious addresses associated with 250,000 claims. Most of these 10,000 addresses also appeared on the larger informational list of 26,000 addresses. EDD asserted that it stopped payment on this set of 250,000 claims and required these claimants to verify their identities. The most egregious example from this analysis was a case of more than 1,700 claims going to a single address.

Figure 1
EDD Responded Slowly to Fraud Risks as Claims Surged

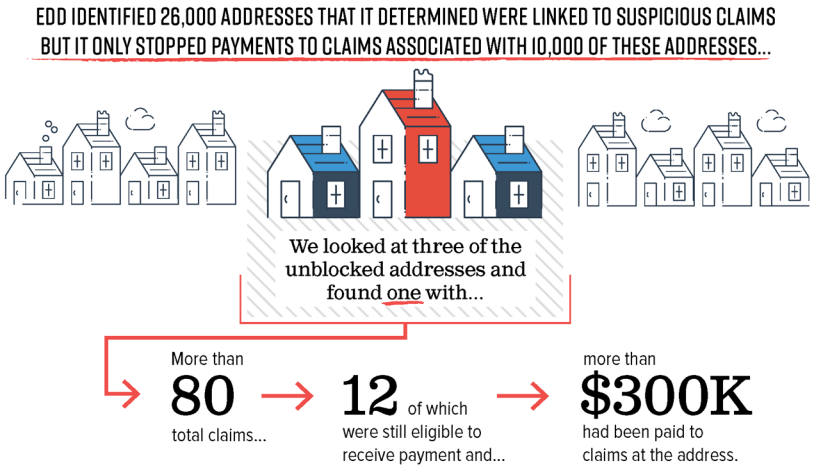


Source: Analysis of EDD's claims data and its fraud tools and modifications made during the pandemic.

It is almost certain that because of its lax approach, EDD missed stopping payment on fraudulent claims during the pandemic. As Figure 2 shows, we selected three addresses that appeared only on EDD's list of 26,000 addresses. In other words, EDD identified claims from these three addresses as potentially fraudulent but did not take any action to stop payments on claims from those addresses (unblocked addresses). More than 80 UI claims were filed at one of these unblocked addresses. Moreover, because EDD was unable to verify the identities of claimants for more than 70 of those claims,

it is likely that impostors used this address to file fraudulent claims. However, EDD's fraud detection tools failed to detect 12 of the more than 80 claims as suspicious, allowing those 12 claims to remain active. As of mid-December 2020, EDD has paid more than $300,000 in UI benefits related to these 12 active claims. One of the other two unblocked addresses that we reviewed, which had more than 20 claims associated with it, raised similar concerns. Our review illustrates that EDD continues to pay claims despite having evidence that they are very likely fraudulent. After we shared our concerns with EDD, it performed another analysis identifying more than 572,000 claims at more than 30,000 addresses it identified as indicative of fraud. Most of these 30,000 addresses were included on EDD's larger informational list of 26,000 addresses identified in September. EDD asserted that it stopped payment on some of those fraudulent claims in mid-December. However, EDD still had not stopped payments on the claims associated with two of the three unblocked addresses we selected, including the address with 12 active claims. We made other observations about EDD's efforts to address problematic numbers of claims at a single address and, to avoid publishing information that could expose EDD to additional fraud, we shared those observations with EDD's management in a confidential letter.

Figure 2
EDD Has Not Stopped Payments on Claims at Addresses It Identified as Suspicious



Source: Review of EDD's analysis of suspicious addresses and claim information.

EDD took another action that compounded the effect of its slow and inadequate reaction to potential fraud. As part of its temporary COVID-19 procedures, EDD instructed staff to automatically backdate new UI claims to the date the claimant said they became unemployed. In other words, staff were told to enter an effective date for a claim that could be weeks before the date the claimant actually filed, allowing that individual to be paid benefits for those weeks. The Department of Labor provided guidance instructing states to backdate pandemic related claims to the week in which claimants first became unemployed. According to EDD, it automatically backdated new claims to comply with this guidance. EDD asserted that automatically backdating claims reduced the manual workload that would have otherwise been required to pay claimants. However, since early September 2020, in response to suspected fraud in the PUA program, EDD has required claimants to submit a separate request, aside from their UI claim, to obtain backdated payment. Since EDD took that action, claims for PUA have fallen considerably. Although we cannot establish a direct link between EDD's actions and the drop in PUA claims, it is possible that by ceasing its practice of automatic backdating, EDD has deterred fraudulent claims from occurring.

Since early September 2020, EDD has required claimants to submit a separate request, aside from their UI claim, to obtain backdated payment.

A Key Process for Detecting Fraud Has Been Overwhelmed During the Pandemic

Under normal circumstances, some of EDD's benefit fraud detection efforts might have allowed it to detect impostor fraud. Benefit fraud can occur when individuals continue to receive benefits by failing to report that they have returned to work. To detect such fraud, EDD performs daily reviews using California employer data and weekly reviews using nationwide employer data. Because these reviews use SSNs to identify overlap between EDD's benefit data and employer databases, the reviews would detect when impostors filed claims using the identities of people who were earning wages. When an overlap is detected, EDD generates and mails documents to the employers of the claimants whom the system detected as both continuing to work and receiving UI benefits, asking for further information about the claimant. EDD staff must then review the returned documents to assess whether fraud has occurred and take appropriate action.

However, during the pandemic, the amount of work generated by these matches overwhelmed the unit responsible for performing these reviews—the Benefit Overpayment Section within the UI Integrity and Accounting Division. Between March and November 2020, this process generated more than 840,000 matches, illustrating that hundreds of thousands of claimants were either collecting UI benefits while working or had had their identities stolen and impostors were using those identities to collect benefits. These 840,000 reviews generated during the pandemic were quadrupled from the number generated for this section to complete in 2019. This process relies on employers to provide details about whether an employee who matches a claimant in EDD's system is earning wages. EDD staff explained that this process can enable EDD to learn about potential impostor fraud because employers often notify EDD that the employees are continuing to earn wages and have attested to the employer that they are not collecting UI benefits. Complaint data we reviewed indicated that employees tell their employer that they are not receiving UI benefits after being questioned by their employer. However, because of the significant increase in the number of reviews generated, as of the end of November 2020, the section responsible for performing them had completed only 113,000 of the 840,000 reviews generated during the pandemic. This process is entirely paper-based and, as of the end of November 2020, the section was still processing documents received in August 2020. Staff do not stop payment on these claims until they process these documents, meaning that EDD has likely continued to pay on these potentially fraudulent claims, despite having identified them through this process. As a result of these workload challenges, EDD has been unable to effectively leverage this practice of relying on existing cross-match reviews to quickly detect fraud.

…an employment data match process generated more than 840,000 matches, illustrating that hundreds of thousands of claimants were either collecting UI benefits while working or had had their identities stolen…

EDD's Slow Response Has Led to About $10.4 Billion in Payments to Suspicious Claims

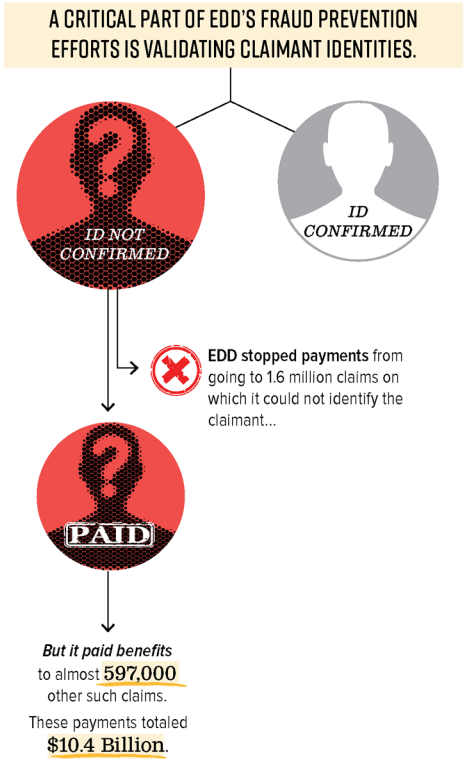
As of late-December 2020, EDD had more than 2.2 million claims submitted during the pandemic for which it could not confirm the identity of the claimant—24 percent of the 9.5 million claims filed

from the time the CARES Act became law in March. EDD issued at least one benefit payment on about 597,000 of those claims before identifying them as potentially fraudulent.[3] In total, EDD paid about $10.4 billion for these claims, as Figure 3 summarizes. Although EDD explained that it is not able to confirm that all of these claims are fraudulent—some of the claimants may have legitimate reasons for ignoring EDD's request for identity information—it does not know how many are legitimate and how many are fraudulent. More than 534,000 of the claims were paid UI benefits in excess of EDD's traditional dollar threshold for pursuing a criminal investigation of an impostor. As we explain in the Introduction, EDD reported that in 2019, its Investigation Division investigated only 14 cases of UI impostor fraud representing more than $5.5 million paid in fraudulent benefits. EDD's Investigation Division told us that as of December 10, 2020, it had opened more than 250 criminal cases related to potentially fraudulent claims filed during the pandemic and estimated an initial loss totaling greater than $30 million on these cases. However, considering that EDD's data show many more potentially fraudulent claims and the difficulty of identifying the perpetrators of the impostor fraud in 2020, it seems highly unlikely that EDD will be able to investigate more than a small fraction of these fraudulent claims, let alone recover a significant portion of the lost funds.

We asked EDD for its perspective on the slow and reactive approach that it took to combating fraud in 2020. EDD asserted that its fraud tools effectively identified and stopped potentially fraudulent claims throughout the pandemic and that it enhanced its existing processes and tools as needed. However, an estimate of the total UI benefit payments EDD prevented through these fraud prevention tools demonstrates that EDD paid almost as much to suspicious claims as it prevented. Using the number of claims associated with individuals with unconfirmed identities to which EDD had not issued payment and an estimated benefit amount based on Department of Labor data for 2020, we estimated that EDD stopped about $12.8 billion in payment to potentially fraudulent claims. Although any amount of fraudulent payment that EDD stops is a benefit to the UI program, a thorough analysis of the effectiveness of EDD's fraud prevention efforts needs to compare the amount of fraud prevented to the amount paid to potentially fraudulent accounts. As we note in the next paragraph, the total amount EDD paid to fraudulent claims is likely to continue growing as it completes upcoming work, further showing that EDD's fraud prevention methods have not been adequate to stop it from paying on fraudulent claims during the pandemic.

[3] This figure does not include approximately 10,000 additional claims for which EDD could not verify the identity of the claimant but issued at least one payment, and for which the claimant has appealed EDD's determination that their identity was unverified.

Figure 3
EDD Paid About $10.4 Billion in Benefits to Claimants With Unconfirmed Identities



Source: EDD data on payments and identity alerts, and Department of Labor estimated fraud rates for UI programs.

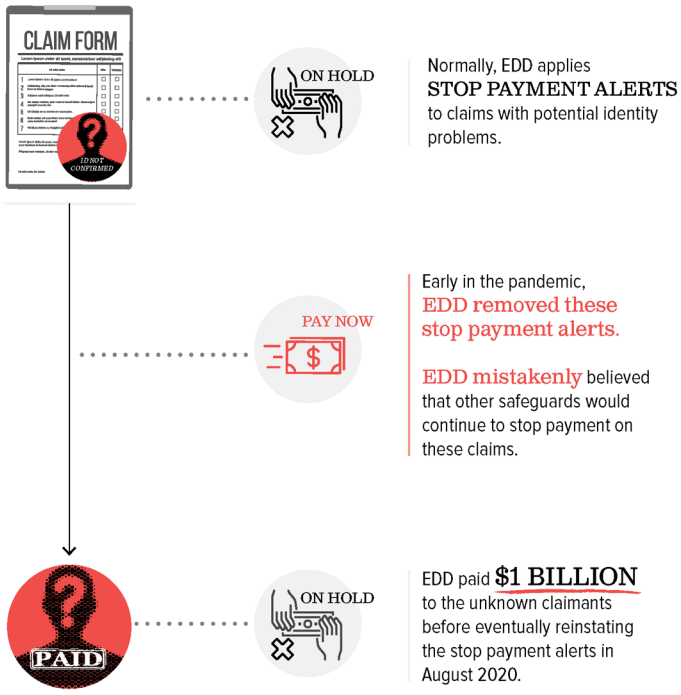
The $10.4 billion is likely not the full amount of improperly paid benefits. As we describe earlier in this section, we observed instances in which EDD continued to pay on suspicious claims that its fraud detection methods had not yet identified. During our audit, the number of claimants for which EDD could not confirm identity grew. Further, EDD's pending reviews of employment data mean it is likely that more claims will be called into question. As of early January 2021, EDD has requested identity information from more than 1.2 million claimants to whom it has already paid $19.5 billion in benefits. It is unlikely that EDD will verify the identity for all of these claimants with pending identity issues. Therefore, it is highly probable that EDD will ultimately determine that it improperly paid significantly more than the $10.4 billion we identify in this report as potentially fraudulent.

EDD Suspended a Critical Fraud Prevention Safeguard During the Pandemic Because of Its Poor Planning

Early in the pandemic, EDD altered a critical fraud prevention mechanism, resulting in it paying more than $1 billion of the $10.4 billion in benefits we discuss in the previous section to suspicious claimants. Figure 4 summarizes this problem. As we describe in the Introduction, EDD stops payment on claims while it verifies claimants' identities, ensuring that it pays benefits only to legitimate and verified claimants. However, early in the pandemic, EDD decided to remove a key safeguard against paying claims for which staff had identity concerns because of the mistaken belief that other safeguards would stop payments on these claims. However, because the EDD leadership who made these decisions did not adequately understand how the stop payments worked, EDD waived the barriers to payment for almost 77,000 claims and paid more than $1 billion on claims that it has determined are potentially fraudulent.

EDD explained that the early months of the pandemic presented challenges in balancing prompt payments for claims against its fraud prevention efforts. In the effort to respond to the overwhelming volume of unemployment claims, EDD leadership decided to identify and remove certain barriers to payment. EDD management asserted that it removed these barriers to streamline its processes. Nevertheless, this decision had significant consequences: EDD incorrectly believed that other safeguards in its claims processing system would stop all payments to claimants with unconfirmed identities. As Figure 4 shows, this incorrect belief was costly. We found that EDD continued to waive this payment barrier into August 2020—meaning it was not until four months after its decision to waive the barrier that EDD reversed its decision and ceased the practice.

Figure 4
EDD Removed a Key Fraud Safeguard and Paid $1 Billion to Individuals With Unconfirmed Identities



Source: Analysis of EDD's claims database and interviews with EDD staff.

The decision to waive this safeguard could have had even more significant consequences. At the time EDD waived the safeguard, it paid an additional 93,000 claims an additional $490 million in benefits before knowing that the claimant identities were confirmed. Although EDD eventually confirmed the identity of these claimants, it did not have that assurance when it issued these payments. Had EDD evaluated the risk of removing barriers to payment, it may have determined the need to streamline other processes in its system that would not have exposed it to so much potential fraud.

EDD paid $1 billion for almost 77,000 claims that it determined may be fraudulent.

We found that the majority of claims with unconfirmed identities for which EDD waived the payment safeguard had future payments prevented by other safeguards. In fact, most of the 77,000 claims received payments only for backdated benefit weeks. For example, one claimant filed a claim on August 3, 2020, but reported having become unemployed due to the pandemic on February 2, 2020—26 weeks prior to filing the claim. EDD immediately stopped payment on the claim on the same day it was filed. However, when it waived the safeguard for this claim, its data show that it paid benefits for the backdated weeks—totaling almost $22,000. Secondary safeguards stopped any future payments on the claim. Subsequently, EDD was unable to confirm this claimant's identity and disqualified the claim from any additional payments.

EDD could have avoided this misstep through more careful planning and preparation. As we explain in more detail in our earlier review of EDD, the department was unprepared for an economic downturn.[4] Its planning deficiencies extend to the area of fraud prevention. As shown by the decision we describe above to remove a claim payment safeguard, EDD leadership made a critical misstep because it had an inadequate understanding of its fraud prevention mechanisms—a gap in understanding that is more easily discovered and dealt with when planning in advance of a crisis moment. In addition to the key features of sound recession planning that we identified in our previous report, EDD's recession planning must include descriptions of the available adjustments to fraud prevention practices that EDD could make while continuing to best mitigate risk. Identifying the types of tasks it determines it is able to stop or delay during a recession while maintaining acceptable fraud detection and prevention efforts would minimize the need for less informed steps like the decision we describe above.

In the Near Future, EDD Will Likely Need to Dedicate Considerable Resources to Assisting Victims of Identity Theft

EDD will likely face a significant workload in the future to support the many individuals whose identities were stolen by impostors who filed fraudulent claims during the pandemic. Between March 2020

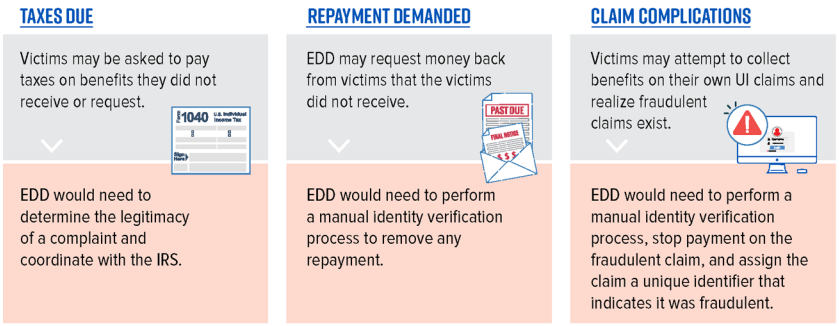
[4] *EDD's Poor Planning and Ineffective Management Left It Unprepared to Assist Californians Unemployed by COVID-19 Shutdowns,* Report 2020-128 / 2020-628.1, January 2021.

and early January 2021, more than 2.2 million claimants did not satisfactorily answer EDD's request that they provide identity documentation. According to EDD, fraudsters are often not able to provide documents to confirm identity; therefore, EDD considers claims that are disqualified due to nonresponse as evidence that it has effectively deterred fraud. Although not every one of these 2.2 million claims made it far enough in the process to be paid, EDD's data indicate that it paid benefits totaling about $10.4 billion on almost 597,000 of these claims, suggesting that these individuals may have obtained benefits fraudulently. However, these are only the cases EDD has identified; the actual number of claims filed with other people's personal information may be higher because people who have not yet learned that they were victims of identity theft have not yet reported it to EDD. Further, we do not believe that EDD's fraud detection tools have yet detected every fraudulent claim filed during the pandemic.

When EDD pays benefits on claims involving stolen identities, the victims of that identity theft may be asked to pay taxes on the benefits or to pay back the benefits. A victim's interactions with EDD to resolve the theft will depend upon the circumstances under which the fraud is discovered, as we show in Figure 5. For example, victims of identity theft may not know they are victims until they receive a tax form notifying them to report income from benefits, are contacted by EDD, or try to collect UI benefits themselves. In each of these cases, the work EDD will need to perform to assist these identity theft victims represents a potentially significant increase in its workload.

EDD's main process for addressing complaints of identity theft has been overwhelmed during the pandemic. If individuals discover that their identity has been used to file a fraudulent claim with EDD, they can notify EDD through its online fraud reporting portal or through its telephone hotline. EDD's data show that by July 1, 2020, EDD was receiving hundreds of these reports each day, growing to consistently receiving more than 1,000 a day in September 2020 and peaking at more than 1,800 reports on a single day that month. By comparison, EDD only received 6,000 UI fraud reports in all of calendar year 2019. EDD has dedicated only a single staff position to receive and assess these reports, and that position became vacant in July 2020. As a result, from April through October 2020, EDD responded to less than 2 percent of the UI fraud reports it received through its online portal. Further, it had yet to address more than 77,000 fraud reports as of November 2020. Many of these reports likely involve victims of identity theft who will need EDD's help to resolve their situations.

Figure 5
EDD Will Likely Need to Assist Victims of Identity Theft in Several Ways



Source: Analysis of EDD's data, workload, and fraudulent claims processes.

To successfully resolve each case of suspected identity theft, EDD must first investigate the complaint to determine whether it can substantiate that identity theft has likely occurred. Once it completes that analysis, EDD can perform the work necessary to clear the reported income from the victim's name. According to data EDD provided, as of mid-December 2020, it had performed this work for about 21,000 victims of identity theft for claims that had been filed from March through November 2020. This process will prevent the victims of identity theft from receiving incorrect tax forms. However, if EDD did not complete this process for an identity theft victim before reporting income to the IRS—a likely outcome given the volume of potentially fraudulent claims and the number of outstanding fraud reports that EDD has received but not yet addressed—the victims will need to contact EDD to resolve their cases. EDD will need to respond to fraud reports as identity theft victims submit them. EDD anticipates these submissions will represent a large workload in the future.

EDD could be better situated if it modified its existing practices to handle this upcoming work. Specifically, instead of continuing to receive complaints of identity theft through its regular fraud report mechanisms, EDD would provide faster and better service to identity theft victims by setting up a dedicated communication channel for those individuals. Further, to better understand the level of work it needs to accomplish, EDD should establish a working group specifically to coordinate the work needed to resolve each complaint of identity theft and make decisions about staffing levels necessary to accomplish that work. Without a concentrated focus,

EDD risks unnecessarily delaying assistance to victims of identity theft, who will remain in precarious tax situations until EDD completes its work.

Recommendations

To ensure that its recession planning encompasses its fraud prevention efforts, EDD should identify the fraud prevention and detection efforts it can adjust during periods of high demand for UI benefits. It should ensure that it accounts for all probable consequences of the adjustments and design procedures that appropriately balance the need to provide prompt payment during a recession with the need to guard against fraud in the UI program.

To prepare to respond to victims of identity theft who receive incorrect tax forms, EDD should, by mid-February 2021, provide information on its website and set up a separate email box for such individuals to contact EDD and receive prompt resolution.

To ensure that it provides appropriate assistance to victims of identity theft who report fraud through its online fraud reporting portal, EDD should, by March 2021, establish a working group to coordinate the work needed to resolve each complaint of identity theft, make decisions about staffing levels necessary, and add staffing to accomplish the work.

EDD's Lack of Preparation Left it Unable to Effectively Address Two High-Profile Situations

Key Points

- In September 2020, EDD directed Bank of America to freeze 344,000 debit cards (accounts) because of concerns about UI fraud. Since then, EDD has not acknowledged its responsibility for this action, and it did not have a plan or take action to ensure that it could unfreeze those accounts belonging to legitimate claimants.
- EDD left itself especially vulnerable to UI fraud associated with incarcerated individuals—which it estimates has reached about $810 million—because it has not had a system to regularly cross-match UI claims with information from state and local correctional facilities.

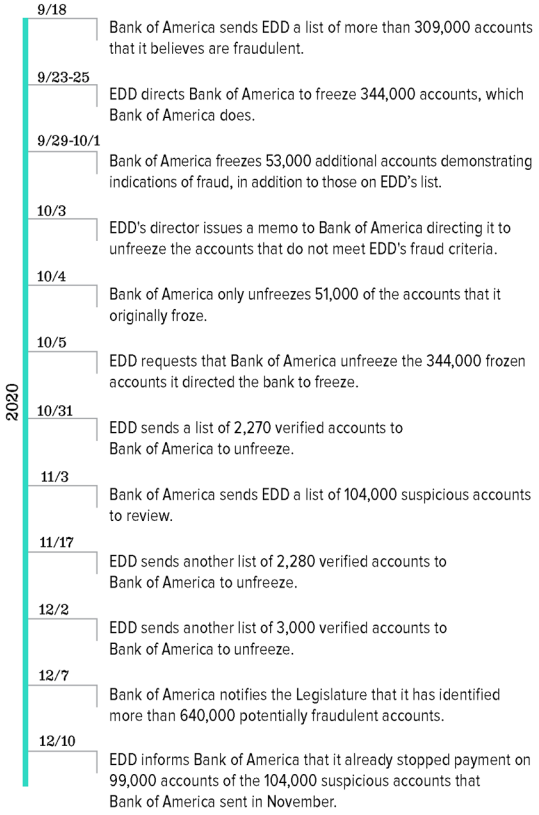
When EDD Directed the Freezing of Accounts for 344,000 Claims, It Did Not Take Sufficient Action to Help Legitimate Claimants

EDD's reactive response to its discovery of potentially fraudulent activity appears to have harmed legitimate claimants. Bank of America—the State's vendor for distributing UI benefit payments—identified more than 309,000 of its UI accounts that it believed to be fraudulent and notified EDD of its plans to freeze—or shut down to prevent cardholders from accessing the funds—these accounts in mid to late September 2020. EDD reviewed the accounts the bank identified and confirmed that Bank of America should freeze 271,000 of the accounts. EDD also directed Bank of America to freeze another set of 73,000 accounts that Bank of America had not identified as accounts it planned to freeze. Therefore, in late September 2020, EDD directed Bank of America to freeze about 344,000 benefit accounts, which Bank of America did, effectively stopping anyone in possession of the debit cards aligned with these accounts from spending the benefit payments deposited into them. Bank of America froze 53,000 additional benefit accounts in the same week because the accounts exhibited certain fraud indicators established by Bank of America. However, because those fraud indicators differed from EDD's fraud criteria, Bank of America quickly unfroze the majority of these accounts in early October 2020 in an effort to align its fraud efforts with EDD's. Figure 6 summarizes key exchanges between EDD and Bank of America.

Several elements of EDD's role in these events are troubling. First, EDD did not initiate the request to freeze these potentially fraudulent accounts on its own, indicating that its fraud detection and prevention methods were not functioning optimally. Second, EDD mishandled the aftermath of this incident. Following public outcry in early October 2020 from legitimate claimants who could not access their benefits, EDD requested that Bank of America unfreeze all 344,000 accounts it had originally directed the bank to freeze—including the 73,000 claims it had independently identified as potentially fraudulent. In effect, EDD's response was to permit potentially fraudulent activity to continue to ensure that legitimate claimants received their benefits. However, it had no analysis supporting its decision to make such a swift change to its previous direction. In the end, Bank of America disregarded EDD's

request to unfreeze the accounts. In a subsequent letter to the Legislature, Bank of America cited its obligation to prevent fraud under federal law as its reason for freezing accounts without EDD's approval. This series of events reveals flaws in EDD's response to fraud: it erred in its initial analysis and request that Bank of America freeze the 344,000 accounts, and it reacted poorly once it realized that accounts of legitimate claimants had been frozen.

Figure 6
EDD and Bank of America Have Repeatedly Corresponded About Fraudulent Accounts



Source: Analysis of EDD's correspondence records with Bank of America and public documents.

In addition, EDD's lack of transparency throughout this exchange damages the public's trust in its statements. When it became apparent that legitimate claimants had been included in the listing of frozen accounts—leading to media reports of people being unable to pay their bills or feed their families—EDD was slow to provide information. In fact, we found no public statements that acknowledged that EDD had directed the freezing of the 344,000 accounts. About a week after EDD directed Bank of America to freeze those accounts, the director of EDD testified to the Legislature that EDD and Bank of America were coordinating "additional review" of more than 350,000 suspicious claims. As the text box shows, when one assemblymember asked the director who froze the accounts, the director did not describe EDD's responsibility and identified Bank of America as the responsible party. A letter from 59 members of the Legislature in November 2020 to the chief executive officer of Bank of America shows that the Legislature believed that EDD had far less of a role in freezing accounts than it actually did. The letter indicates that EDD informed the Legislature that frozen accounts were solely the result of Bank of America's efforts. Although it is true that Bank of America froze some accounts without direction from EDD, the department played a significant role in directing that 344,000 accounts be frozen.

EDD's Director Did Not Acknowledge EDD's Role in Freezing 344,000 Accounts

Assemblymember: I know my district office has continued to receive several constituent calls more recently regarding the Bank of America cards that have been suddenly frozen. Can you give us a sense as to why are they being frozen? And whose accounts are being frozen? Is that something that the department directed them to do or is this something that the bank is doing?

EDD Director: This is part of the Bank of America's fraud protection services, I guess. And that's what I mentioned, that B of A and our—EDD and Labor Agency—we're meeting this afternoon to walk through exactly what was going on, what makes sense. And look at that balance again between paying claims versus fighting fraud. So we're aggressively taking a look at that.

Source: Director's testimony at a hearing of the Assembly Budget Subcommittee on State Administration on October 7, 2020.

Subsequent coordination between EDD and Bank of America about potentially fraudulent accounts has also been problematic. First, EDD has been slow to respond to another list of questionable accounts that the bank identified. In early November 2020 Bank of America sent EDD a list of more than 104,000 accounts that it identified as suspicious and requested guidance from EDD about what to do with the accounts. EDD delayed providing direction to Bank of America until one month later, risking that some fraudulent claimants would continue to collect benefits while EDD performed its analysis on those accounts. Further, when it did respond, EDD informed Bank of America that it had already stopped payment to more than 99,000 of the accounts, but failed to provide explicit instructions to Bank of America as to whether it should freeze those accounts. Therefore, EDD did not direct the bank to protect the money that it had already deposited into those accounts. Moreover, EDD neglected to mention what it had determined—if anything—about the remaining 5,000 accounts that Bank of America originally provided for review. EDD explained to us that it was still verifying the identities of the majority of these claimants as of December 10, 2020.

Still more problematic have been difficulties that EDD and Bank of America have had in agreeing how to unfreeze accounts that belong to legitimate claimants. One complicating factor has been that, during our review, EDD did not know which accounts were frozen or needed to be unfrozen. In fact, EDD confirmed that it does not have a centralized process for tracking and monitoring these frozen accounts, making it unclear how many accounts in total were frozen. Therefore, it does not have a systematic way to ensure that it reviews all frozen accounts to determine whether the accounts should be unfrozen and returned to legitimate claimants. Without such a process, any attempt that EDD makes to address the problem of legitimate claimants with frozen accounts may be incomplete and potentially flawed. Further, Bank of America has required EDD to individually verify the identities of the claimants associated with the 344,000 frozen accounts that EDD identified before it will unfreeze the accounts. An external consultant determined that 72,000 of the 344,000 frozen accounts were at low risk of being fraudulent claimants; however, EDD will need to manually verify these claims as legitimate before Bank of America will unfreeze those accounts. As of December 10, 2020, EDD had verified the identities of only about 7,500 affected claimants. Although EDD may find that it disqualifies some of these claimants—potentially from both the low-risk group of 72,000 accounts and the remaining population of the original 344,000 frozen accounts—for failing to respond to its requests for identity documentation, there will likely be a significant number still to be addressed. Therefore, it will be important for EDD to explore using ID.me or another type of expedited identity verification to avoid prolonging the process by which it resolves frozen benefit accounts that belong to legitimate claimants.

When we presented EDD with our concerns about its interactions with Bank of America, EDD explained that it was concerned about correspondence it had received from the bank that predated the September freezing of 344,000 accounts. EDD cited examples of Bank of America contacting EDD with eight lists of problematic accounts from mid-July through mid-September 2020. However, our review shows that EDD also handled some of these cases poorly. Specifically, Bank of America shared a list of almost 66,000 potentially fraudulent accounts with EDD in mid-July 2020 and requested EDD's review of these accounts. However, EDD was unable to provide any correspondence that demonstrated it ever answered Bank of America's request. In August 2020, Bank of America notified EDD that it was freezing approximately 5,700 accounts due to fraudulent activity. Records show that EDD knew about those frozen accounts and no record we reviewed shows that EDD expressed concern that the bank had frozen the accounts without first consulting the department. In early September 2020, Bank of America again sent EDD a list of more than 150,000 accounts that the bank identified as having suspicious

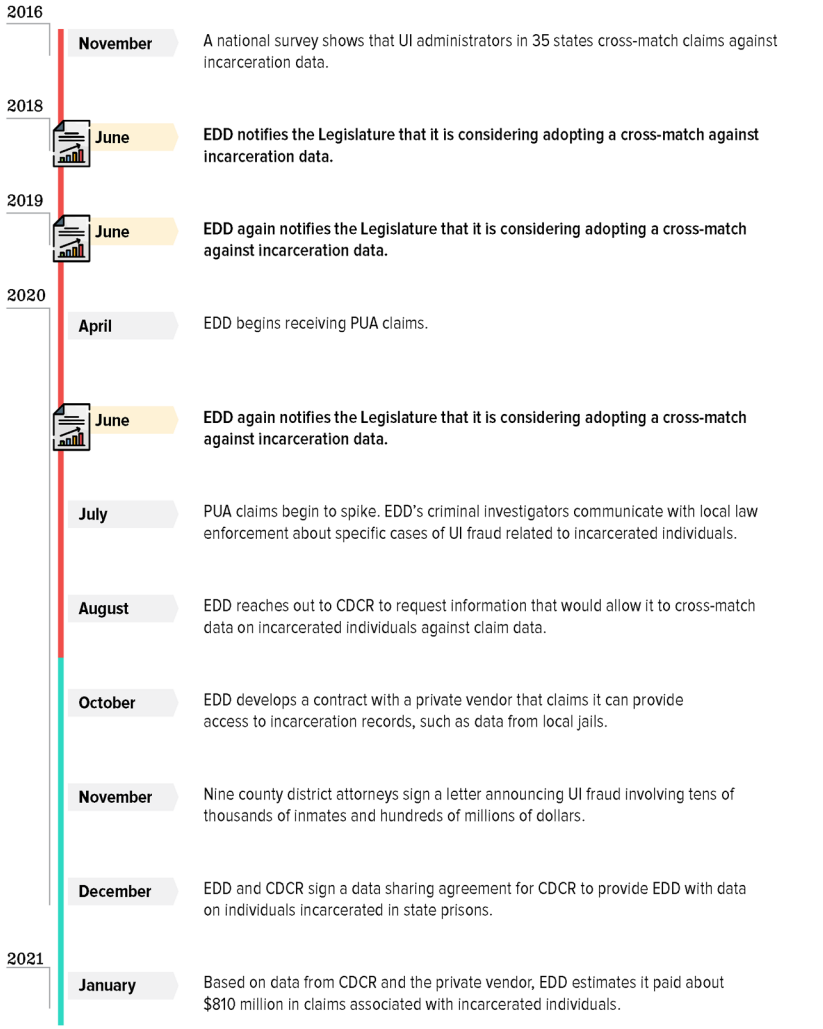
activity, requesting EDD to review the accounts and determine if any are fraudulent and should be frozen by Bank of America. Again, EDD was unable to provide any correspondence that demonstrated that it ever answered Bank of America's request. These earlier requests are evidence of yet another warning about potential fraud that EDD does not appear to have comprehensively addressed.

EDD Was Unprepared to Detect and Handle the Hundreds of Millions of Dollars in Fraudulent Claims Associated With Incarcerated Individuals

As we show in Figure 7, EDD left itself especially vulnerable to fraud associated with incarcerated individuals—which law enforcement officials have said has totaled hundreds of millions of dollars in fraudulent payments during the pandemic. In late November 2020, nine county district attorneys signed a letter announcing that the Department of Labor identified roughly 35,000 unemployment claims filed from March 2020 through August 2020 using data that matched individuals incarcerated in state prisons against UI information. According to November 2020 correspondence from the deputy secretary of communications at the California Labor and Workforce Development Agency, 21,000 of these claims received payments that totaled $400 million. EDD later estimated that between January 2020 and November 2020, it paid about $810 million in benefits to roughly 45,000 claimants with information that matched incarcerated individuals, based on both state prison data and a December 2020 analysis by a private vendor that used data from state and local correctional facilities across the country. EDD noted that most of the problematic claims were for PUA; as we note in the Introduction, the CARES Act relaxed some requirements for receiving these benefits, such as extending the benefits to individuals who had been self-employed and therefore would not have had a third-party employer to report their wages. EDD was unprepared to guard against inmate fraud in this program because it lacked a system to cross-match all incoming claims against incarceration data.

EDD estimated it paid $810 million in benefits to 45,000 claimants who were incarcerated.

Figure 7
Because It Delayed Obtaining Critical Information, EDD Was Unprepared for UI Fraud by Incarcerated Individuals



Source: Emails from and interviews with staff at EDD, EDD claims data and vendor analysis, EDD's annual fraud reports to the Legislature, a letter from nine district attorneys, EDD's data sharing agreement and contract information, and a national survey of state unemployment programs.

EDD's failure to institute this type of cross-match is of special concern given the wide use of this approach throughout the rest of the country. According to a 2016 report on the results of a survey from the National Association of State Workforce Agencies, 35 states were cross-matching unemployment claims with state prison data and 28 states were cross-matching claims with county jail data at that time. For example, Washington state's Employment Security Department reported in December 2016 that it was cross-matching electronic jail records against its database of unemployment benefits three times per week and that it was examining the feasibility of creating a more robust cross-match using real-time data. In that report, Washington's department noted that since it had begun cross-matching these records, from March 2015 through July 2016 it denied benefits on nearly 1,500 such cases and recovered almost $250,000 in related overpayments.

Given the prevalence and usefulness of the incarceration data cross-match, it is troubling that EDD failed to implement this fraud prevention tool previously. According to EDD's annual report to the Legislature on fraud deterrence from June 2020, it already had processes to cross-match its records against other types of data, such as a monthly cross-match with mortality data and a real-time verification of claimants' SSNs with the Social Security Administration. By contrast, the report noted that EDD was "considering" new options for sharing data, such as incarceration data, with government agencies—language that it had also included in its 2018 and 2019 reports. However, according to the chief of EDD's Investigation Division, since starting his position in April 2016 and until recent conversations on this topic in 2020, he was not part of or aware of discussions with the California Department of Corrections and Rehabilitation (CDCR) about sharing state prison data to cross-match against UI claims. During the pandemic, when EDD became aware that this gap in its safeguards was allowing a substantial amount of fraud to occur, EDD spent months negotiating access to CDCR's state prison data after an EDD investigator initially reached out to CDCR in August 2020 about sharing information to identify potential fraud. CDCR originally took a stance that, except in limited circumstances, it was prohibited from providing the information to EDD, but it indicated that the Attorney General authorized it to provide the inmate information to EDD in early December 2020.

Since it became apparent during the pandemic that its failure to cross-match claims against incarceration data was allowing illegitimate benefits payments, EDD has pursued two solutions to address this gap in its fraud prevention efforts. First, according to EDD's chief information officer, EDD has recently expanded its cross-checking capabilities through a private vendor to cross-reference inmate data from prisons and jails in multiple states.

This vendor provided the December 2020 analysis that contributed to EDD concluding that it had paid about $810 million in benefits associated with incarcerated individuals. A contract between EDD and this vendor with a term of October 2020 through June 2021 includes access to what the vendor calls "real-time incarceration and arrest records." An EDD IT Branch staff member confirmed that, although the vendor's analysis for EDD has largely been retrospective, EDD is considering using the vendor in the future to perform more timely checks of new incoming claims against incarceration records. The chief information officer noted that she had not been in her position before May 2020 and, therefore, could not speak to why EDD had not pursued this option before the pandemic. Second, in early December 2020, EDD and CDCR established a data sharing agreement for CDCR to provide inmate data to EDD's investigators at least monthly for two years. State law authorizes the Office of the Attorney General (Attorney General) to share criminal offender information with EDD when there is a compelling need and allows CDCR to provide this information on the Attorney General's behalf.

Despite these new efforts, the Legislature should take action to help ensure that the State prevents future fraud by inmates. Although EDD has established a data sharing agreement with CDCR and a contract with a private vendor that likely will provide additional local data, such as from county jails, the CDCR partnership is dependent on the Attorney General determining that EDD has a compelling need for the information. Because of EDD's fraud prevention deficiencies that we discuss here and elsewhere in this report, and because EDD must rely on other entities such as CDCR to provide inmate data, legislative action is necessary to ensure that EDD can regularly access and use data from state and local correctional facilities to prevent future fraud. A mandate to share information and use that information to check incoming UI claims for potential fraud related to incarcerated individuals would address what has been a longstanding gap in EDD's fraud prevention approach that allowed significant fraud to occur during the pandemic.

Recommendations

Legislature

To ensure that EDD prevents fraud associated with incarcerated individuals, the Legislature should amend state law to do the following:

- Require EDD to regularly cross-match UI benefit claims against information about individuals incarcerated in state prisons and county jails to ensure that it does not issue payments to people

who are ineligible for benefits. The Legislature should specify that EDD perform the cross-matches as quickly as possible after individuals file claims and with as little disruption of legal and eligible claims as possible.

- Require CDCR and any other necessary state or local government entities to securely share information about incarcerated individuals with EDD to enable EDD to prevent fraud.

- Require EDD to include, in its annual report to the Legislature about fraud, an assessment of the effectiveness of its system of cross-matching claims against information about incarcerated individuals. The assessment should include how regularly EDD performs the cross-matches, how successful the cross-matches are in detecting and preventing fraud, and whether the cross-matches negatively affect eligible claimants attempting to legally obtain benefits.

EDD

To ensure that it provides legitimate claimants with benefits but does not pay benefits related to fraudulent claims, EDD should immediately obtain from Bank of America a comprehensive list of claimants' accounts that are frozen. EDD should immediately thereafter evaluate the list—including considering using ID.me to verify claimants' identities—to identify accounts that should be unfrozen. By March 2021, it should direct Bank of America to take action to freeze or unfreeze accounts as appropriate.

To ensure that it reviews each account that Bank of America reports to it as suspicious or potentially fraudulent, by February 2021, EDD should establish a centralized tracking tool that allows it to review and stop payment on claims, as appropriate. EDD should use this tool to monitor its own internal decisions and track whether the claimant responds to its requests for identity information and should, therefore, have their account unfrozen.

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EDD Has Relied on Uninformed and Disjointed Techniques to Prevent Impostor Fraud

Key Points

- EDD's disjointed approach to fraud prevention has placed its UI program at a higher risk for fraudulent activity. It has not established a centralized unit to manage its fraud detection efforts, and it does not reliably track suspicious claims to ensure that it is taking appropriate action to resolve any issues, including those that suggest fraud has occurred.
- Best practices for fraud prevention suggest that government agencies should have a dedicated unit to mitigate the risk of fraud. Until EDD designates such a unit and develops a comprehensive approach to preventing and detecting fraud, it is at a greater risk for paying benefits on fraudulent claims.
- EDD does not measure or monitor any of its fraud prevention or detection tools to determine how effectively each one detects fraud. As a result, it may be using ineffective fraud prevention and detection techniques that fail to prevent fraudulent payments or delay payments to legitimate claimants.

EDD's Approach to Fraud Prevention Is Disjointed and Ineffective

In nonrecessionary years, EDD is responsible for the oversight and administration of a UI program that pays more than $5 billion annually in benefits to Californians who qualify for assistance. An essential element of effective management of such a program is prevention of attempts to receive benefits fraudulently. Not only is maintaining the integrity of the UI program a federal expectation, it is critical to ensuring that it provides assistance only to those who genuinely need it rather than those who misrepresent themselves to obtain money illegally. Given the importance of fraud prevention, we expected that EDD would have a cohesive and centrally managed fraud prevention effort, that it would track potential fraudulent activity from detection to resolution, and that it would ensure coordination between the fraud prevention and detection initiatives it uses. Because these practices are lacking, EDD's UI program is at a higher risk for fraud.[5]

EDD has not assigned responsibility to any single departmental unit for ensuring that its fraud detection efforts operate as intended, contributing to its disjointed approach to stopping fraud. As we note in the Introduction, many different divisions and offices have roles related to detecting fraud. These individual EDD units forward reports or allegations of fraud to one another and—in the process—do not remain involved in the resolution of the allegations. Figure 8 shows key units within EDD and the independent responsibilities they have related to fraud. As the figure shows, EDD's fraud detection approach is highly dependent on a variety of units all coordinating effectively with one another. Separation of responsibilities may be an appropriate way for EDD to divide its labor. However, that separation also increases the risk that units will not coordinate

[5] Federal law requires EDD to perform regular audits of randomly selected claims in an effort to determine its improper payment rate. Those audits also identify the causes for EDD's improper payments. However, those efforts differ from a focused attention on individual claims and are, therefore, only part of the solution to preventing fraud in the UI program.

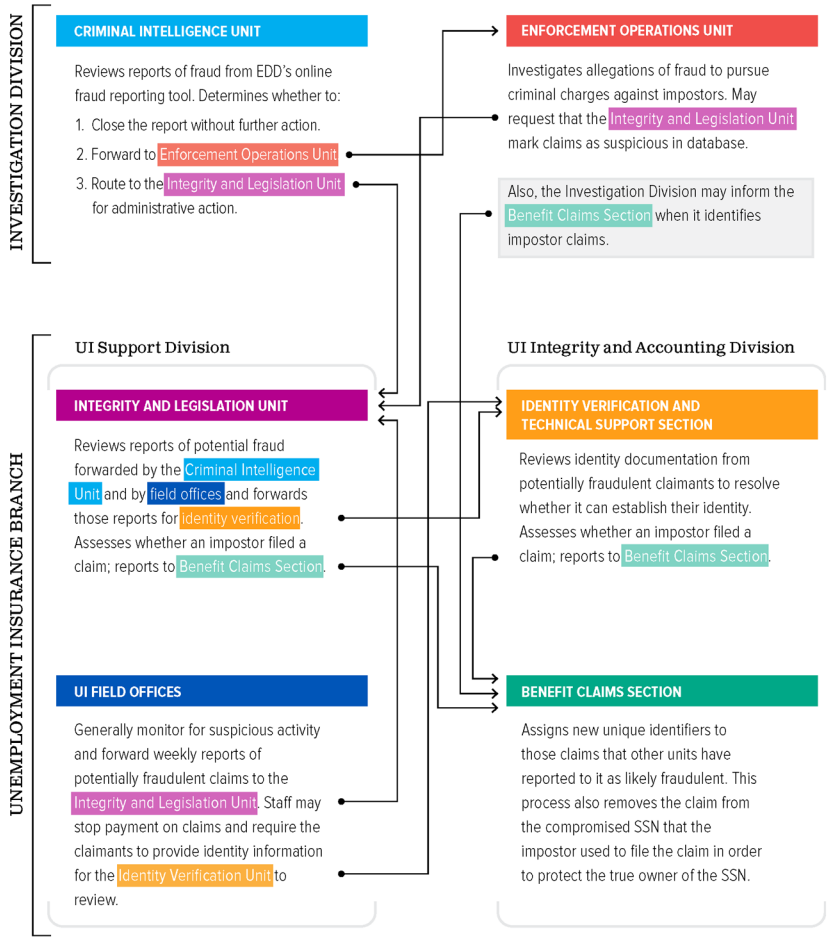
effectively with one another. For example, EDD has assigned primary responsibility for receiving and reviewing fraud allegations to the Criminal Intelligence Unit within its Investigation Division. However, the chief of the Investigation Division stated that the Criminal Intelligence Unit cannot stop payment on claims that it identifies as suspicious. It must refer any potentially fraudulent claims to other units or divisions for further investigation or administrative action. This delay may allow EDD to continue paying UI benefits on fraudulent claims, even after EDD staff have identified them.

We observed that a key mechanism EDD's units use to communicate about potentially fraudulent claims is dedicated email accounts that are managed by multiple staff. Referral and tracking of potential fraud by email increases the risk that EDD will mishandle a fraud report. For example, the Criminal Intelligence Unit's hotline operator monitors and receives reports of fraud from the public. If the hotline operator finds that an allegation has merit, the operator forwards the report to a dedicated email address for the UI Integrity and Legislation Unit. The UI Integrity and Legislation Unit reviews the claim associated with the fraud report and then passes the fraud report to the UI Identity Verification and Technical Support Section for further work. We attempted to follow two fraud reports that the hotline operator emailed to the UI Integrity and Legislation Unit in April and July 2020 to determine what action the unit took. In neither case could the UI Integrity and Legislation Unit locate the original emailed referral from the hotline operator, and the unit could only demonstrate that it had reviewed one of the two fraud reports. These examples demonstrate the gaps in the way EDD manages reports of potential fraud.

Referral and tracking of potential fraud by email increases the risk that EDD will mishandle a fraud report.

In another example, EDD has not coordinated its identity verification efforts, leading to duplicated effort with no discernible benefit. Since its implementation in October 2020, EDD has touted ID.me—an identity verification program that we describe in the Introduction—as one of its primary methods for preventing identity thieves from filing false claims. However, EDD confirmed that it continues to implement fraud detection tools that require claimants to verify their identities even after successfully completing ID.me verification, essentially requiring claimants to verify their identities twice. During a single day in November 2020, for instance, one of its other fraud detection tools flagged 352 claims for identity verification.

Figure 8
EDD Has Convoluted Its Fraud Prevention and Detection Approach by Spreading Key Efforts Among Its Different Units



Source: Review of EDD's organizational chart, EDD's policy and procedure documents, and interviews with EDD staff.

When we asked EDD why it continued to require secondary identity verification even after implementing ID.me, staff asserted that ID.me may have verified an individual's identity, but that individual may have exhibited indicators of fraud that ID.me was not designed to detect. However, as of mid-November 2020, EDD stated that it had not performed any analyses to determine whether this secondary verification step detects fraud that ID.me missed. Further, this secondary verification tool initially requires claimants to provide identity information similar to what they used for ID.me before EDD then further evaluates their eligibility. As such, EDD's secondary tool may delay payments to legitimate claimants by requiring them to verify their identities twice.

During our review, EDD asserted that it was taking steps to improve coordination between the different units that take action to prevent and detect fraud. In mid-November 2020, EDD hired a new deputy director to oversee its Policy, Accountability, and Compliance Branch. This deputy director has been tasked with establishing a fraud working group across the department. However, as of December 30, 2020, this group had not yet held its initial meeting or fully formed a charter to define its purpose. Because best practices for fraud prevention and detection suggest that government agencies should have a dedicated unit to identify fraud risk and determine the activities that the agency will engage in to mitigate that risk, we have concerns that EDD's approach does not seem headed in this direction. The U.S. Government Accountability Office (GAO) recommends that fraud prevention units have sufficient authority, be the central repository for knowledge about the agency's fraud prevention activities, and be the central coordinator of those activities. EDD's new working group may be an improvement to its current approach to preventing fraud, but it would be an even greater improvement for EDD to centralize fraud prevention into a single unit with proper authority to adopt and manage a fraud prevention strategy. Although the scope of our review was limited to fraud prevention practices within the UI program, it would be consistent with GAO guidance and efficient use of resources for EDD to centralize its fraud mitigation efforts in one unit for all of its major programs.

EDD Has Not Determined the Effectiveness of Its Fraud Prevention and Detection Methods

Although EDD employs a variety of tools to prevent and detect potential fraud—such as matching claims against employment records and death records—it has not conducted any analysis of the effectiveness of these tools to determine how well they detect fraud. State law requires EDD's director to periodically review its policies and practices to identify, in part, those that provide little or no value in preventing fraud or abuse in the UI program. However, EDD could

not demonstrate that it had performed any such reviews since it reported the results of its first review to the Legislature in 2015. State law also requires EDD to report to the Legislature annually on its fraud detection and deterrence efforts, which it has done. Because of these two requirements, we expected that EDD would measure the effectiveness of each of its fraud prevention and detection tools to ensure that it is balancing its need to provide prompt payments to legitimate claimants with its need to prevent fraudulent payments. Although EDD annually reports on its fraud detection and deterrence efforts to the Legislature, it has not determined how reliably its tools and methods actually detect fraud. EDD's lack of a single unit with the authority to oversee its fraud prevention and detection activities may be one of the reasons that no one at EDD has measured or assessed these tools' effectiveness.

Understanding the effectiveness of its fraud detection tools is paramount to EDD's success at balancing timely payment of benefits with reduced risk of fraud. For example, if EDD knew that most of the claims one tool flagged were indeed fraudulent, it would be reasonable for EDD to continue to rely on that tool. However, if another tool flagged many potentially fraudulent claims that turned out to be legitimate, it would be advisable to alter or remove it since the tool would delay payments to real claimants without detecting actual fraud as well as perhaps wasting valuable EDD resources.

No one at EDD has measured or assessed its fraud detection and prevention tools' effectiveness.

EDD's chief information officer asserted that EDD has collaborated with other departments, such as the California Department of Technology, to assess the effectiveness of EDD's fraud prevention efforts. However, EDD was unable to provide any evidence of such an analysis or of any efforts to comprehensively understand the effectiveness of EDD's fraud prevention and detection efforts. Such an analysis is critical to informing and continuously improving EDD's approach. By evaluating outcomes of UI claims it identifies as having increased fraud risk, as well as identifying claims it did not flag as suspicious but later learned to be fraudulent, EDD can assess the frequency with which individual fraud detection efforts are successful. This will allow the department to update its fraud prevention strategy to prioritize the tools and techniques that prove most effective at stopping fraud and reduce or eliminate those that cause claimants unnecessary delays and yield little benefit.

EDD recently received additional federal funding to bolster its fraud prevention and detection efforts. In September 2020, the Department of Labor awarded EDD $2.4 million in grant funding to prevent and detect fraud in the UI programs implemented in response to the pandemic. Guidance associated with the grant provides examples of uses for these funds, including data mining and analysis. The guidance also suggests the use of the National Association of State Workforce Agencies' Integrity Data Hub, a centralized, multistate data system that allows states to perform cross-matches of claims, provides a national fraud alert system, and supports data analytics on multistate claims. In December 2020, EDD developed a draft spending plan with possible uses for the $2.4 million grant. Regardless of what it decides to do with the newly allocated funds, EDD must ensure that its fraud prevention and detection approach aligns with best practices. Until it does so, it cannot ensure that it appropriately protects the funding intended for qualified unemployed Californians from those who would defraud the State.

As we describe throughout this report, EDD's approach to fraud prevention and detection demonstrates the weaknesses caused by its poor planning and program management. Had it implemented a centralized fraud unit responsible for overseeing its overall fraud approach, it would not have needed to rely on its several units to balance the decision-making process and modifications it made early in the pandemic. It would have already had a dedicated unit responsible for advising it about and implementing those program changes to bolster its approach. Similarly, in nonpandemic times, this unit could likely have ensured that EDD's approach to fraud was informed by evidence of effectiveness, which would provide greater assurances to the public and Legislature that delays in payments to legitimate claimants were appropriate delays. However, because EDD neglected to employ these best practices to mitigate fraud, its weaknesses in detecting and preventing fraud have been exposed during the pandemic. To address these weaknesses, EDD will need to take strategic and urgent steps to coordinate and strengthen its approach moving forward.

Recommendations

Legislature

To ensure that EDD effectively protects the integrity of the UI program, the Legislature should amend state law to require EDD to do the following:

- By January 2022 and biannually thereafter, assess the effectiveness of its fraud prevention and detection tools and determine the degree to which those tools overlap or duplicate one another

without providing any additional benefit. EDD should then eliminate any fraud prevention and detection approach for which it lacks clear evidence of effectiveness. It should include this assessment in its annual report to the Legislature on fraud detection and deterrence efforts.

- By July 2021, provide the Legislature with an update on its progress in performing this analysis.

EDD

To ensure that it maintains a robust set of safeguards against fraud, EDD should do the following:

- By March 2021, designate a unit as responsible for coordinating all UI fraud prevention and detection. EDD should assign that unit sufficient authority to carry out its responsibilities and align the unit's duties with the GAO's framework for fraud prevention.

- By May 2021, develop a plan for how it will assess the effectiveness of its fraud prevention and detection tools.

We conducted this performance audit in accordance with generally accepted government auditing standards and under the authority vested in the California State Auditor by Government Code 8543 et seq. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on the audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Respectfully submitted,

Elaine M. Howle

ELAINE M. HOWLE, CPA
California State Auditor

January 28, 2021

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APPENDIX

Scope and Methodology

State law authorizes the California State Auditor (State Auditor) to establish a program to audit and issue reports with recommendations to improve any state agency or statewide issue that we identify as being at high risk for the potential of waste, fraud, abuse, and mismanagement or that has major challenges associated with its economy, efficiency, or effectiveness. In August 2020, we issued a report that designated the State's management of federal COVID-19 funds as a high-risk statewide issue in California. Because EDD administers the UI program and specifically the CARES Act federal funding related to COVID-19 unemployment, we performed an audit of EDD's oversight of these funds. The objective of this audit was to evaluate EDD's recent fraud prevention efforts related to its UI program. In conducting this audit, we interviewed staff at EDD, reviewed public and confidential documents related to EDD's efforts to detect benefit and impostor fraud, and collected documentation from EDD pertaining to the steps it has taken to address increased fraud during the pandemic, including fraud issues raised by the public. To assess how EDD communicates reports or allegations of fraud internally, we selected five fraud reports from EDD's fraud reporting portal and evaluated documentation about the resolution of these reports. We also reviewed a selection of claims in EDD's internal database to assess whether the fraud detection tools EDD described to us had effectively detected fraud and stopped payments to those claims. In addition, we reviewed payment information to assess the amount of benefits paid on potentially fraudulent claims as a result of actions taken by EDD. Last, we reviewed guidance and best practices published by the Department of Labor and GAO to inform efforts that EDD should take in developing a comprehensive approach to fraud prevention and detection.

Assessment of Data Reliability

The GAO, whose standards we are obligated to follow, requires us to assess the sufficiency and appropriateness of computer-processed information that we use to support our findings, conclusions, or recommendations. In performing this audit, we relied on electronic data files that we obtained from EDD's UI and IT branches. To evaluate the data, we reviewed existing information about the data, interviewed staff knowledgeable about the data, and assessed documentation to validate general details about the data. Because we performed only limited testing of the data, we found them to be of undetermined reliability. Although we recognize that this determination may affect the precision of the numbers we present, there is sufficient evidence in total to support our audit findings, conclusions, and recommendations.

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Employment Development Department
State of California

Gavin Newsom, Governor
California Labor and Workforce Development Agency

January 11, 2021

Elaine M. Howle, CPA*
California State Auditor
621 Capitol Mall, Suite 1200
Sacramento, CA 95814

Dear Ms. Howle:

Thank you for working with our team to complete a thorough review of the challenges EDD has faced since the COVID-19 pandemic. We appreciate the recommendations offered, as this has been a public health and economic event without precedent in American history. EDD is prepared to implement all seven of the fraud recommendations put forward in the audit report.

Like many states, California was unprepared for the impact the COVID-19 pandemic had on both unemployment claims and fraud. California went from record employment rates to record unemployment rates -- seemingly overnight.

The new federal Pandemic Unemployment Assistance (PUA) program presented particular challenges, as it did not have the same safeguards as California's unemployment program. While in a September letter from the Department of Labor acknowledged that the new program is a "target for criminal enterprises and other bad actors deploying advanced technologies, stolen or synthetic identities, and other sophisticated tactics," the Trump Administration provided insufficient support to states to address the aggressive attacks by domestic and international criminal syndicates. ①

In 2010, the worst full year of the Great Recession, EDD paid $22.9 billion in benefits on 3.8 million processed claims. Since March 2020 more than $112 billion in unemployment benefits has been paid on 18.8 million processed claims. Of the ② $112 billion in benefits paid out, the state has identified $10.4 billion as fraudulent of which approximately 92% of which are PUA claims. EDD has put new ③ safeguards in place flagging an additional $19.5 billion as suspicious, triggering stop payments and outreach to more than 1.2 million claimants to verify identity and over 150,000 to verify other eligibility criteria. In addition, during that same time frame, EDD successfully identified 1.6 million claims as potentially fraudulent

* California State Auditor's comments begin on page 51.

and stopped them from proceeding. Based on an average weekly benefit amount and the average number of weeks of benefits, this represents $7 billion in average fraudulent payment prevented to date, which does not take into account PEUC or Fed-Ed extensions or the Lost Wages Assistance program ($17.4 billion - $10.4 billion)). ④

In the face of such a drastic increase in claims and unprecedented fraud, EDD undeniably struggled to timely distribute benefits to the millions of newly unemployed Californians and simultaneously prevent fraudulent claims.

This year, EDD took additional steps to detect and prevent fraud including:

⑤
- Stopping 1.6 million fraudulent claims before being paid; identified through EDD's manual identity verification process.
- Stopping the automatic backdating of PUA claims in September 2020 – an action the Trump Administration later advised all states to take.
- Worked with the California Cybersecurity Integration Center to adopt additional cybersecurity protocols.
- Deploying a Strike Team to look at recommendations and solutions to transform the customer experience of applying for and receiving UI benefits with a focus on addressing the backlog of claims.
    - One of the top recommendations of the Strike Team, launched ID.me a third-party identify verification program that helps stop 30% identity fraud at the beginning of the process and helps process claims more quickly compared to the previous manual verification process.

③
- Working with a contractor, initiated additional fraud detection criteria to weed out fraudulent claims which have flagged 1.4 million claimants as high risk for fraud.
- Creating a new task force led by the Governor's Office of Emergency Services (Cal OES) that includes the State's District Attorney's, the US Attorney's Office, the Employment Development Department, the California Department of Corrections and Rehabilitation (CDCR), the California Department of Justice focused on investigating fraud, holding people accountable and identifying resource needs including:

- Data sharing agreements between EDD and the Departments of Corrections and Rehabilitation and State Hospitals.
- $5 million to support and enhance investigative efforts of the regional District Attorney task forces.
- Collaborating with the California Cybersecurity Integration Center to leverage the State cyber security threat intelligence, big data analysis and threat assessment capabilities to support investigative efforts.

(6)

- Coordinating with other states through the National Association of State Workforce Agencies (NASWA) for a unified voice in Washington DC and contracting with NASWA's UI Integrity Center to identity, detect and prevent fraud.

EDD will use all seven fraud related recommendations provided by the State Auditor to continue making improvements and strengthening protection of our unemployment system. We look forward to implementing these recommendations, providing updates as requested, and our continued collaboration.

Sincerely,

Rita Saenz

Director

Public Release Date: January 28, 2021

CSA Audit: EDD Significant Weaknesses in EDD's Approach to Fraud Prevention Has Led to Billions of Dollars in Improper Benefit Payment

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CSA (JLAC) Recommendations – Fraud Report 2

Recommendation #1

To ensure its recession planning encompasses its fraud prevention efforts, EDD should develop an evaluation of the fraud prevention efforts that it can adjust during periods of high demand for UI benefits. It should ensure that it accounts for all probable consequences of the adjustments, and design procedures that appropriately balance the need to provide prompt payment during a recession and the need to guard against fraud in the UI program.

EDD Response to Recommendation #1:

The EDD agrees with this recommendation.

During the COVID-19 pandemic, EDD has experienced unprecedented attacks on the unemployment programs– including from domestic and international crime rings. These
⑦ attacks primarily targeted the federal PUA program In response to the significant fraud, the EDD has initiated additional fraud prevention and detection efforts, such as the implementation of ID.me in October 2020 and cross matching CDCR and DSH inmate and patient records, as well as contracting with Thomson Reuters to review EDD data against industry-standards fraud measures in December 2020. EDD will continue to evaluate, monitor, and if needed implement new tools as fraud continues to evolve. It is the goal of the EDD to be proactive and nimble as necessary to stop fraud before claims are paid while also continuing to investigate fraud that has occurred. EDD is also committed to applying lessons learned during the pandemic to the future.

Recommendation #2

To prepare to respond to victims of identity theft who receive incorrect tax forms, EDD should, by mid-February 2021, provide information on its website and set up a separate email box for such individuals to contact EDD and receive prompt resolution.

EDD Response to Recommendation #2:

The EDD agrees with this recommendation and is confident that we will meet the proposed mid-February 2021 date. In preparation for calls related to the tax form that claimants receive (Form 1099G) and mailings related to potential fraud, the department is updating the EDD website and enabling the ability for customers to submit a question online through the public-facing Ask EDD portal and on their UI Online account. The EDD will also temporarily increase staffing in the Integrity and Accounting Division (IAD) contact center by 300 agents by February 1, 2021.

In addition, all UI Contact Center agents will receive training regarding 1099G calls. Any reports of fraud will be identified and analyzed through the Identity Verification process, ID.me and Thomson Reuters tools, or elevated to the Investigations Division. Claims with reported identity theft that are identified and confirmed as imposters will have re-computations completed and an amended 1099G will be provided. Additional hiring is in place to build resources in the Identity Verification and Re-computation areas to meet the increase in workload.

Additionally, the EDD is committed to ensuring victims of identity theft in our benefit programs are provided information and resources to assist them in reporting fraud and dealing with the aftermath of identity theft. Customers who wish to report fraud visit our EDD public website at https://edd.ca.gov/ and select “Report Fraud” under our Ask EDD link.

The EDD is committed to reviewing our online services to improve the customer experience, especially during the unprecedented outbreak of fraud associated with the federal Pandemic Unemployment Assistance program.

Recommendation #3

To ensure that it provides appropriate assistance to victims of identity theft who report fraud through its online fraud reporting portal, EDD should, by March 2021, establish a working group to coordinate the work needed to resolve each complaint of identity theft and make decisions about staffing levels necessary and add staffing to accomplish the work.

EDD Response to Recommendation #3:

EDD agrees with this recommendation. An enterprise Fraud Workgroup has been formed with representation of all benefit program areas of the EDD. The purpose of this workgroup is to document and evaluate current fraud prevention processes and fraud policies, including how individuals can report and resolve identity theft related to a

benefit program. As part of the Fraud Workgroup, a subcommittee will be established to evaluate the resources and expertise needed to resolve complaints of identity theft and make recommendations to accomplish the work.

Recommendation #4

To ensure that it provides legitimate claimants with benefits but does not pay benefits related to fraudulent claims, EDD should immediately obtain from Bank of America a comprehensive list of claimants' accounts that are frozen and unfrozen. EDD should immediately thereafter evaluate the list—including considering using ID.me to verify claimants' identities—to identify accounts that should be unfrozen or frozen. By March 2021, it should direct Bank of America to take action to freeze or unfreeze accounts as appropriate.

EDD Response to Recommendation #4:

The EDD agrees with this recommendation. The EDD remains committed to ensuring that legitimate UI claimants timely receive the benefits for which they are eligible.

EDD has been working with Bank of America to determine appropriate actions on lists of frozen accounts received from Bank of America. As the vendor for the prepaid debit cards, Bank of America has its own obligations to prevent fraud. Bank of America has access to cardholders' transactional history data, which is an additional fraud detection tool. Because EDD and Bank of America have different tools and information for identifying fraud, we have engaged in many conversations to understand how to leverage each set of tools to enhance our collective fraud detection efforts. These communications continue.

EDD is in the process of reconciling all of the lists it has received from Bank of America
⑧ to date. A centralized tracking tool has also been created to track action taken on each of the frozen cards and the status of the account. To ensure accountability and completion in review of these lists, procedures have been documented with specific roles and responsibilities and completion timeframes. EDD is also in the process of contacting claimants whose accounts were flagged for identity verification through a separate data cross-match, to verify their identity through ID.me for any claim filed prior to October 1, 2020, including those who may have a frozen debit card.

Recommendation #5

To ensure it reviews each claim that Bank of America reports to it as suspicious or potentially fraudulent, by February 2021, EDD should establish a centralized tracking tool that allows it to review and stop payment to claims, as appropriate. EDD should use

this tool to monitor its own internal decisions and track whether the claimant responds to its requests for identity information and should, therefore, have their account unfrozen.

EDD Response to Recommendation #5:

EDD agrees with this recommendation and in December 2020, the Information Technology Branch created a central repository to store, track and maintain the lists provided to and from the Bank of America. These lists and their status will be updated regularly to enable EDD to track the appropriate action taken on each account and the outcome of each claim. To ensure accountability and completion in review of these lists, procedures have been documented with specific roles and responsibilities and completion timeframes. ⑧

Recommendation #6

By March 2021, designate a unit as responsible for ensuring coordination of all UI fraud prevention. EDD should assign that unit sufficient authority to carry out its responsibilities and align the unit's duties with the GAO's framework for fraud prevention.

EDD Response to Recommendation #6:

The EDD agrees with the recommendation in principle and will explore how best to address this recommendation through the Fraud Workgroup. Part of the Fraud Workgroup's charge will be to identify opportunities and provide recommendations to centralize fraud prevention efforts, where appropriate, including the creation of a unit whose duties are aligned with the U.S. Government Accountability Office's framework for fraud prevention. ⑨

Recommendation #7

By May 2021, develop a plan for how it will assess the effectiveness of its fraud prevention tools.

EDD Response to Recommendation #7:

The EDD agrees with this recommendation. Despite challenges, the EDD was able to prevent a significant amount of fraudulent benefits from being paid in 2020. During the year EDD successfully identified 1.6 million claims as potentially fraudulent and stopped them prior to payment which represents an estimated $7 billion in fraudulent payments prevented (using an average of 16.1 weeks and an average benefit amount of $282.39, plus $600 in Federal Pandemic Unemployment Compensation for a third of the weeks, minus the $10.4 billion paid out). Additionally, based on an independent review of all ⑤ ④

③ 9.7 million unique claims in December 2020, EDD put a stop payment on 1.4 million claims that were flagged for high probability of fraud.

⑦ Throughout this pandemic EDD has taken additional steps to detect and prevent fraud using a layered approach including:

- Launching ID.me – a third party identity verification tool that helps stop fraud at the front door.
- Contracting with a vendor to assess and apply industry standard fraud criteria to EDD claims.
- Entering into MOUs with CDCR and DSH to share and crossmatch identifying information.

These are new tools initiated in response to the unprecedented fraud seen over the course of the pandemic. EDD is currently evaluating the inventory of these, and other, tools and organizational resources to align our efforts in improving reporting metrics through benchmarking and continual analysis, including historical analysis and trending reports that can provide quantitative analysis of the effectiveness of our fraud prevention tools. Our goal is by May 2021, to have developed a plan on how to assess the effectiveness of our fraud prevention tools.

COMMENTS

CALIFORNIA STATE AUDITOR'S COMMENTS ON THE RESPONSE FROM EDD

To provide clarity and perspective, we are commenting on EDD's response to the audit. The numbers below correspond to the numbers we have placed in the margin of its response.

EDD does not acknowledge earlier warnings about potential fraud and its own failure to respond quickly to those warnings. We note on page 9 how the Department of Labor warned states about fraud in the early months of the pandemic and reminded states to take reasonable and customary precautions to deter and detect fraud. On the same page we also note that in May 2020, the Department of Labor's Office of the Inspector General warned EDD that—based on fraud trends in the UI program—California was likely to see at least $1.2 billion in potential fraud from 2.9 million new claims that EDD had received in March and April 2020. Further, on page 26 we describe how in July 2020 Bank of America shared with EDD a list of almost 66,000 potentially fraudulent accounts. However, because EDD did not take prompt action to enhance its safeguards against fraudulent benefit payments, it paid about $10.4 billion for claims from March through December 2020 that it has since determined could be fraudulent. ①

To clarify, we requested that EDD analyze its data to determine very specific information about the total paid to potentially fraudulent claims. EDD did not attempt to determine this amount until we asked about it. Absent our request, it is not clear whether EDD would have identified this amount. EDD did not provide us with support for its claim that 92 percent of the $10.4 billion was for PUA claims, and therefore we do not opine on that figure. ②

This action is indicative of EDD's slow approach to bolstering its fraud detection efforts during the pandemic. EDD states that it has placed new safeguards in place that have flagged an additional $19.5 billion in claim payments going to over 1 million claimants as suspicious and clarifies later in its response that it identified these claimants by working with a contractor. However, EDD did not take action to identify these claims as potentially fraudulent or stop payment to them until December 2020—almost eight months into the pandemic and four months after EDD asserts it observed an increase in fraudulent PUA claims. That EDD identified so many claimants as potentially fraudulent only after paying them $19.5 billion in benefits is troubling and a sign that EDD's fraud prevention approach was lacking the rigor it needed at the start of the pandemic. ③

④ On the day EDD's response to our draft report was due, it shared its estimate that it had prevented an estimated $7 billion in potential fraud. After reviewing EDD's estimate, we determined that the method we used to develop a $12.8 billion estimate was preferable because it allowed for a direct comparison to the amount EDD paid to potentially fraudulent claims. We shared our estimate with EDD after it submitted its response and it agreed that it should be reflected in the report. Further, we explain on page 17 that we expect the $10.4 billion that EDD has paid to potentially fraudulent claims to continue to grow as EDD performs additional work to verify questionable claimant identities. As we note on page 15, analysis of the effectiveness of EDD's fraud prevention approach should compare the amount paid to potentially fraudulent claims to the amount of improper payments prevented. Accordingly, EDD cannot know at the time whether it stopped more potentially fraudulent payments than it issued because it is still accounting for all potential fraud.

⑤ Although EDD identified 1.6 million potentially fraudulent claims before paying those claimants, its fraud prevention efforts failed to stop payments totaling $10.4 billion to about 597,000 claims, as we explain on page 15. Further, we state on page 17, and as EDD acknowledges in its response, EDD has flagged an additional 1.2 million claimants to whom it has already paid $19.5 billion in benefits as suspicious. It is unlikely that EDD will verify the identity of all of these claimants. Therefore, although the 1.6 million claims represent some level of success, it cannot yet be compared to the rate at which EDD failed to prevent fraud because it is still verifying the identities of some claimants it has already paid, leaving open the possibility that the number of claimants with unconfirmed identities to whom EDD paid benefits will grow.

⑥ EDD cites its partnership with CDCR as a positive step it took to combat fraud during the pandemic. However, it is troubling that EDD failed to implement a cross-match between claim data and incarceration data well before the pandemic began. We describe on page 29 how EDD spent months during the pandemic negotiating access to CDCR's state prison data. However, we note a national survey showed that 35 states were cross-matching unemployment claims with state prison data in as early as 2016. Further, EDD has reported to the Legislature that it was "considering" new options for obtaining incarceration data since at least 2018. Finally, as we state on page 30, the CDCR partnership is dependent on the State Attorney General determining that EDD has a compelling need for the information. Because of EDD's fraud prevention deficiencies that we discuss in this report and because EDD must rely on other entities such as CDCR to provide inmate data, legislative action is necessary to ensure that EDD can regularly access and use data from state and local correctional facilities to prevent future fraud.

Had EDD taken action before the pandemic, as many other states had done, this critical safeguard would have already been in place and would have prevented some of the $810 million in fraudulent payments in claims associated with incarcerated individuals.

EDD describes the actions it took to combat the "unprecedented attacks" on the UI program. However, EDD began taking the actions it describes in October 2020, more than six months into the pandemic, despite earlier warnings about this fraud. Further, these steps—though laudable—evidence how unprepared EDD was to combat fraud at the outset of the pandemic as each of these steps would have reasonably benefited EDD in the years before 2020 and better prepared it to respond to the pandemic-related surge in claims. (7)

EDD describes actions it is in the process of implementing. We expected that, before our audit began, EDD would have a method for comprehensively tracking the status of benefit accounts that have been frozen. However, as we note on page 26, during our review EDD did not appear to know the status of all of the claimant accounts that have been frozen and confirmed that it did not have a centralized tracking process for the status of these accounts. EDD now asserts that it has established a centralized way to track these matters. We look forward to reviewing its progress as part of our regular recommendation follow up process. (8)

EDD indicates that it will use its recently formed work group to explore how to implement our recommendation. EDD should act quickly to address the problems we highlight in Figure 8 on page 35 where we show the fragmented responsibility for fraud prevention at EDD. Because EDD's approach does not align with best practices for fraud prevention, we recommended that it centralize fraud prevention responsibility and authority in a single entity. Moreover, as we note on page 36, the working group had not yet held its initial meeting or fully formed a charter to define its purpose as of December 30, 2020. Therefore, its progress in exploring our recommendation to date has been minimal. We look forward to seeing the progress EDD makes in addressing our recommendation as part of our regular recommendation follow up process. (9)

Mrs. STEEL. This report found significant weaknesses in the Employment Development Department's approach to fraud prevention, which led to billions of dollars in improper benefit payments. According to the report, EDD paid $1 billion of $11 billion, in part due to a problematic decision to streamline its process by removing a safeguard against paying individuals with unconfirmed identities.

EDD, which was led by current Department of Labor Deputy Secretary Julie Su, issued the payments to those claimants with unconfirmed identities before discovering it had removed the safeguards for more than a four-month period. And believe it or not, she was just named then Acting Secretary of the Department of Labor, so somebody who messed up in California's EDD problems.

California made it easy for fraudsters access benefits, and that had devastating consequences for my constituents. We should all be on the side of good governance and protection of taxpayer money, and the billions in fraud paid out over the last two years is an embarrassment.

Mr. Turner, last October your agency issued a report finding that nearly half of the pandemic unemployment benefits may have been improperly paid, with 1 in $5 going to fraudsters. California was one of the worst states you looked at. One of the things your report looked at was timeliness of the payments.

I share the concerns voiced by my friends on the other side of the aisle about ensuring equity and access to benefits. That doesn't mean we should prioritize speed over safeguards just to get money out the door quickly. California stories show how unfair and unjust the consequences can be for taxpayers and workers.

Mr. Turner, can you talk about best practices, and what needs to be done to modernize systems to ensure states have the proper verification up front?

Mr. TURNER. Yes, and thanks for the question. I think one of the things that we don't do enough and utilize enough is data analytics. Data analytics has helped us. It has been a game changer and a force multiplier, and it was one of the things that allowed us to identify the $45.6 billion in fraud from those 4 high-risk areas that I mentioned earlier. So that is one thing.

I think also maybe we need to look at probably a central database. One of the things that helped this fraud get perpetrated was the fact that every state, all 53 states or entities, operate different systems. So, there was not enough cross-checking to basically catch some of that fraud early on.

Mrs. STEEL. So how are you going to make it easy between California—especially California is the highest amount, that fraudulent amount that, you know, you found out. So how are you going to work with the state and Federal Government?

Mr. TURNER. Well, just giving guidance from our reports as far as what needs to be done to be improved. I think that is a big start.

And just emphasizing working together, and coming up with maybe one system, because right now the biggest challenge for the OIG is data access. And so—and that is what I believe slowed us down in identifying some of this fraud earlier.

Mrs. STEEL. Thank you very much.

I yield back.

Chairman SMITH. Thank you, Representative. I would like to recognize Ms. Van Duyne from the great state of Texas.

Ms. VAN DUYNE. Thank you very much, Mr. Chairman. Thank you for holding this hearing, as well.

As my colleagues have already alluded to, this hearing is long overdue. It is entirely unacceptable that it took a change in control of Congress to investigate the greatest theft of taxpayer dollars the United States has ever seen. And yet this Administration has not shown an ounce of care.

Behind me I want you to look at the estimates of immensely irresponsible amounts of fraud and improper payments. The fact that the Biden Administration can turn a blind eye to this dire level of fraud raises questions that there is no end in sight.

OMB estimates an appalling $104 billion of potential fraud. Let's put that into perspective, because we have been throwing out numbers like they don't mean anything: $104 billion, that is a level of spending that is equal to the entire budget of the Department of Veterans Affairs, the entire budget. But it is also thought by a number of professional auditing agencies that that number is worse. It is four times that amount. It is up to $400 billion.

And not only is this the greatest theft of taxpayer money, but it is borderline criminal, and certainly pure incompetency. The oversight of this money is an absolute dumpster fire being put out by a fireman with a garden hose.

Mr. Turner, you mentioned that you had sent correspondence to the Trump Administration about some of these concerns. Have you also sent correspondence communications to the Biden Administration?

Mr. TURNER. Yes, we have.

Ms. VAN DUYNE. Do you think—do you have any reason to suspect that there was fraud, abuse, potential outlays of dollars that were improper after January 20th of 2021?

Mr. TURNER. Yes, there was.

Ms. VAN DUYNE. I appreciate you saying that, because I think members on the other side of this aisle need to hear that. We have, in the last two years, experienced a lot of fraud. We are talking about $400 billion that, to the people that they claim that they want to help, that dollars could have gone into those pocketbooks.

We just released—just because they are saying that this happened under the Trump Administration does not release Congress from its duty to be able to protect those dollars. We have to admit that there have been problems under both administrations, right? We can't just stick our head in the sand and blame Trump for everything, and pretend, like we heard last night, that everything under this Administration is rosy and perfect.

We have an opportunity right now today to have an honest discussion. You would assume that getting down to fraud and abuse and saving taxpayer dollars for those people who need it the most would be a bipartisan effort.

All of you are well versed. You have done a tremendous amount of investigation. You have got solutions on the table that you want to present to us today. But instead, we are hearing about the witnesses who aren't here, the stories of people who have used unemployment. We understand it was used. It was used by people who

needed it the most. But we also understand up to $400 billion was misused, and we need to get down to that.

And I have got some questions. I know during my time on Small Business that there were issues with PPP and EIDL, and we thought those dollars were being spent overseas illegally. Do we know how much money went to international organizations and foreign actors?

Do we know if this money fell into the hands of terrorist organizations?

And can we track how much money actually went overseas?

And probably the biggest question I have got for any of you: Do we have any hope I have ever seen these dollars again?

Mr. Dodaro.

Mr. DODARO. History will tell us that there will be a very low percentage that would likely be recovered from fraud. And that is just the fact of the matter.

Ms. VAN DUYNE. Mr. Turner.

Mr. TURNER. I would agree. And let me just say it is going to take a while. As you know, the—a lot of the fraud is still out there. We still have 162 open investigations that we haven't looked at. And so it is going to actually take quite a while to ever figure out exactly how much.

Ms. VAN DUYNE. Mr. Horowitz.

Mr. HOROWITZ. The recovery rate is clearly going to be far below what the fraud rate is. Having said that, the public should know we are going to do everything we can in our powers to try and track down and find every dollar. And Congress has given us tools to do that. We are asking for some more, and we are going to do everything we can.

We are going to also, by the way, use suspension and debarment authorities and others to try and make sure that crime doesn't pay to the best extent possible we are able to do it.

Ms. VAN DUYNE. Do you think it is important to us that we start that as soon as possible, and not have kind of this political theater?

Mr. HOROWITZ. Oh, absolutely. Look, this—and we are doing it. We have been doing it for three years, and we are going to keep doing it.

Ms. VAN DUYNE. I appreciate that answer. Thank you very much.

And I yield back.

Chairman SMITH. I want to thank the gentlelady and recognize the gentleman from Pennsylvania, Mr. Evans.

Mr. EVANS. Thank you, Mr. Chairman. Mr. Chairman, my comments will be to the point.

First, I want to thank the ranking member for what he has said, because I believe he has summed it up. And when you talk about just the facts, that is what I believe that it should come down to. That is where I believe that we are.

So, I encourage my colleagues to consider these distressed constituents, and remember that unemployment insurance saved the economy and kept families out of poverty. So, I believe that what he said, he summed it up.

And I yield back the balance of my time.

Chairman SMITH. Thank you, I thank the gentleman. I recognize the gentleman from Iowa, Mr. Feenstra.

Mr. FEENSTRA. Thank you, Mr. Chairman Smith. Thank you also to each of our witnesses for your testimony. I greatly appreciate it.

Obviously, we have talked about, you know, what has happened at the height of the pandemic, with 15.4 percent unemployment, 23 million people unemployed. The circumstances, obviously, demanded a resolution, and we did that. But with that created risk. And now we are responsible. We are responsible for oversight of the risk that occurred in giving these unemployment benefits.

What is interesting to me is that we never had oversight, or never had hearings in 117th Congress, despite the warnings that were noted last March from the Department of Labor that we had $163 billion of improper payments.

So, I am grateful. I am very grateful and thank Chairman Smith for holding this hearing. And I also want to thank you again as witnesses for doing so and being part of this.

Mr. DODARO, it is very important, I think, that we continue to assess the exact scale of the problem. I mean, we really need to know the exact scale. And I know you have been working on that. I greatly appreciate it.

The GAO's report last month noted that this is a little difficult concerning the false positives and false negatives. We are not sure. Also, due to the lack of consistent and reliable estimates that cover all UI payments during the pandemic, it is not currently possible to combine existing estimates and measures to make a meaningful statement about the extent of fraud and UI programs during the pandemic.

So, in your testimony you noted GAO has committed to build on existing evidence with its own modeling to calculate a more precise estimate. Can you talk about that?

How do we refine our estimate, and what would be the barriers in refining that estimate?

Mr. DODARO. Well, first, the Labor Department, for a number of years, has what is called the—the acronym is BAM, Benefit Accuracy Measurement program. So, they estimate a national fraud rate and a national improper payment rate. So far, they have not measured the improper payment rate for the pandemic unemployment insurance program. That was the one for self-employed people, a brand-new program. We all think that the rate, fraud rate, is higher for that program than probably the more traditional unemployment insurance program because there was—allowed for self-certification rate.

So, what we are trying to do is to look at that program, in particular. We will see what the Labor Department comes up with their estimate, which is due this year, and then we will do some sampling of that particular program. We are going to look and do some modeling of other areas. So, we are going to take a modeling approach. We are also going to try to sample some of the estimates.

Mr. FEENSTRA. Yes.

Mr. DODARO. And it is important to remember that our estimate of 60 billion is the low end.

Mr. FEENSTRA. Correct.

Mr. DODARO. We have said that that is the low end. We are working on a higher rate now.

Mr. FEENSTRA. So, when do you think you can have a more accurate number? At what point——

Mr. DODARO. I mentioned earlier late this summer.

Mr. FEENSTRA. Late this—okay, late this summer, okay.

Mr. DODARO. Late this summer. If we do it earlier, I will obviously let you know.

Mr. FEENSTRA. Yes.

Mr. DODARO. But I think it is important——

Mr. FEENSTRA. It is.

Mr. DODARO [continuing]. to note that there are a lot of numbers out there.

Mr. FEENSTRA. Yes.

Mr. DODARO. But they are all bad.

Mr. FEENSTRA. I hear you. An accurate number would be wonderful. Then we know what we are dealing with, right?

So, another question. So, I come out of State of Iowa. I was chair of ways and means. I handled unemployment, the tax tables and stuff like that, understanding the nuances of unemployment tax. So, when I look at empowering state auditors, I really think we can do this. I think we can use state auditors, but we have got to empower them.

So, Dodaro, and even Mr. Turner, what are your ideas to empower them? Because they are just not going to say, oh, I am going to do this, right? I mean, they could care less about the Federal Government. It's like—but we can do things to empower them. What are your thoughts on that?

Mr. DODARO. I think we should have specific audit requirements for state auditors to look at the unemployment insurance program and the Medicaid program. These are two programs on our high-risk lists. Medicaid is one of the fastest-growing programs.

Right now, there is hardly any auditing done of the managed care portion of Medicaid. And——

Mr. FEENSTRA. But do they care? I mean, I look at the state going—and they are—I mean, I—we use our tables, and it is like, what do we care about—why should I do this for the Federal Government? I mean——

Mr. DODARO. Well, but I think in both of those programs states provide their own money.

Mr. FEENSTRA. Yes, right, that is true.

Mr. DODARO. And so there are some incentives for them. I mean, the Medicaid program is probably a third of each state's budget, at least, in the program.

Mr. FEENSTRA. Right, right. So, do you think that is enough carrot? I mean, I just——

Mr. DODARO. Well, all you got to do is turn an auditor loose, and you give them some money to pay for——

Mr. FEENSTRA. There is the key. You hit it on the head. You give them a little incentive of money, don't you think?

Mr. DODARO. Right. You have to provide support.

Mr. FEENSTRA. Yes.

Mr. DODARO. Now, right now, there are single audits that are done by state auditors.

Mr. FEENSTRA. Yes.

Mr. DODARO. But they don't focus enough on the detailed aspects of fraud and mismanagement. They are starting point for accountability——

Mr. FEENSTRA. Yes.

Mr. DODARO [continuing]. But they are not the answer.

Mr. FEENSTRA. No, no. Well, I want to thank you for that.

I just want to quickly note, I mean, when you work in business, you pay people to collect debt. That might be a clue for our first eight auditors for the Federal Government.

Thank you, and I yield back.

Chairman SMITH. I thank the representative. I would like to recognize the gentlelady from the State of New York, Ms. Malliotakis.

Ms. MALLIOTAKIS. Thank you very much. Thank you so much for your testimony. It was very informative.

And we have heard today of the massive figures of improper unemployment payments, many fraudulent, which could be as high as $400 billion, some of which could have been prevented if we had put in the proper guardrails in place in—particularly in the last $1.9 trillion American Rescue Plan that the Democrats jammed through.

My home state of New York—unfortunately, but not surprisingly—ranks near the top of the list, with an estimated $11 billion in fraudulent unemployment payments—I mean, payments alone. These taxpayer dollars went to fraudsters, many who are from overseas, as far away as China and Russia and Nigeria, who bought luxury cars, condos, watches, designer goods.

As you could see, I mean, a nice graph here, because we haven't talked about that today. It is shocking to my constituents when we tell them that this pandemic relief money shamefully went to purchase 18 carat Rolex watches, luxury condominiums, Louis Vuitton and other designer goods, a $10 million villa in the Dominican Republic, $3.5 million mansion in New Jersey, chartered jet services, luxury vehicles, from Porsches to Mercedes Benz to Ferraris to Bentleys. One person even received $1.5 million over a span in 10 months.

This is absolutely unacceptable, and I am glad to hear today that there is bipartisan support to crack down on this, and we must do what we can to recoup this money.

But to make matters worse, my district offices in Staten Island and Brooklyn worked with dozens of constituents who have had their identities stolen and could not get the unemployment benefits that they desperately needed. Because the department of labor in New York failed to prevent fraud at the outset of the pandemic, the Unemployment Insurance Trust Fund was drained. And for the last two years the state has had an outstanding loan to the tune of $8 billion from the Federal Government. My colleague mentioned this earlier. I am concerned that New York small businesses are going to be left holding the bag.

And my question, if you can clarify, if New York continues to fail to repay its Federal advance due to its failure to limit this fraud, will their per-worker tax keep increasing year after year, and by how much?

Mr. DODARO. I can provide an answer for the record for it, but I would say offhand that that is up to the state to decide how to repay the money.

Now, some of the pandemic money was available for states to use to repay their money that they owed to the unemployment insurance program. So, I even think there is money, you know, in the coronavirus relief fund that was given, $350 billion to the states, I believe—don't hold me precisely to this, but if my memory serves me right, some of that money could be used to help repay the program.

So, it depends on the decisions made by the governors and the state legislatures on how to repay that money.

Ms. MALLIOTAKIS. Well, that is a good point, and it is about $100 billion that is unspent in COVID relief funds. So perhaps the Federal Government can take action there.

Which states did it right? Okay, New York, obviously, did it wrong. My colleague talked about his state of Utah, that they had good preventive measures in place. What states, Mr. Horowitz, do you think are model states that we should be looking at on how to prevent this type of fraud?

Mr. HOROWITZ. What we have seen are evolving actions by the states over the last several years. And so, what I would want to do is get back to you on sort of which ones perhaps are leading the effort.

There are several, though, as part of the National Association of State Workforce Agencies, that have come together to, for example, implement identification verification, identity verification tools that have been very important because—you mentioned identity theft. We at the PRAC often talk about identity theft creating three victims: there is the public at large, because it is the public's program that gets the money stolen from; there is, obviously, the person whose identity is stolen, who has credit issues, other issues they have got to deal with; but then there is the person, as you mentioned, who was the intended beneficiary.

And we have heard testimony about individuals, as you said, who went to get benefits, whether it is from unemployment insurance or other programs, and were turned down because the agencies thought they were the fraudsters.

Ms. MALLIOTAKIS. No, I appreciate that.

Mr. HOROWITZ. The fraudster beat them there.

Ms. MALLIOTAKIS. And I want to—just 20 seconds left with—on that point.

Mr. Dodaro, your testimony notes that as of October 2022 there have been 41 states using the Identity Verification Service that provides new data sets to conduct enhanced unemployment claim and identity verification, as was discussed here, and contains cross-matching with Social Security, the Death Master File, to identify the use of deceased persons.

Can you please talk about that? Why are—and should all states be using this service, number one?

And do we have an estimate of how many dead people received unemployment benefits?

Mr. DODARO. I don't know if Mr. Horowitz knows that, or Mr. Turner, but I don't have the estimate for the total number.

But I do know that it is an appropriate cross-match to make. And one of the easiest targets for fraudsters is to get a Social Security number from a deceased individual. A lot of this information, as Mr. Turner mentioned earlier, is on the dark web. And they can do that.

And I know my own mother received—she passed away, unfortunately, right before the pandemic, so she received an economic incentive payment from the Treasury Department. Now, my sister returned it, because she called me and said, "What to do?"

I said, "Send it back."

And so, you know, Treasury—this is a problem at the Federal Government, too. Treasury sent $1.4 billion to an estimated 1.2 deceased individuals in the economic incentive programs. Now, due to our recommendation, I got about half of that back, so about $700 million.

The—right now, the Treasury Department Fiscal Service is not allowed to use the Social Security full Death Master File to check before they make a Federal payment. Now, that is something I have been trying to get for years. Congress finally passed it. It is due to take effect next year around this time. But I think it should be expedited and made prominent on the basis.

I mean, there is no reason that we should be doing this.

Ms. MALLIOTAKIS. Thank you.

Mr. TURNER. Just if I could add on that—the Death—Social Security numbers of dead individuals, we do have that available. I don't have it broken down for me right now, but we can provide that to you at a later time after the hearing.

Ms. MALLIOTAKIS. Thank you. I am sure everyone on the committee would like to know that, the answer to that.

Mr. TURNER. Yes, we can provide that.

Ms. MALLIOTAKIS. Thank you.

Mr. HOROWITZ. And we will, you know, work to get that data.

But I would say, just picking up on Mr. Dodaro's comment, we—on our fraud alert we just released, when we matched PPP and EIDL information with the Social Security Administration, we have several thousand deceased individuals who got PPP and EIDL loans. Our job now is we are trying to figure out if they were alive at the time of application. My guess is some were, my guess is many weren't, because we have seen this problem, and it makes no sense why you would want the Social Security Administration to have a Death Master File index, and yet let other parts of the Federal Government pay out billions of dollars in benefits to individuals who are deceased.

Chairman SMITH. Thank you, Representative. We will now recognize the gentleman from Illinois, Mr. Schneider.

Mr. SCHNEIDER. Thank you, Mr. Chairman, and let me start with the obvious.

Everyone on this committee is outraged at the rampant fraud experienced during the pandemic. American taxpayers, including, as was touched on, those who relied on the programs stood up by this Congress—and, by the way, stood up unanimously by Republicans and Democrats together—were victimized by deceitful individuals and organized criminal groups. No one is defending it. We all agree that we should be doing everything possible to recover the money

stolen and prosecute those who stole the money to the full extent of the law.

We also need to make sure that, going forward, we are better at defending against fraud, from program design to system development supporting the programs, and deterring those inclined to consider stealing from taxpayers with greater prosecution and enhanced recovery.

And let's review the facts. Three years ago, our nation faced an unprecedented health and economic crisis. In February of that year, we sat in this very room with Secretary Azar. I would venture to say that no one sitting here had any idea of the devastating impact the pandemic would have.

We had a much better view a month later, when we came back to D.C. and passed the CARES Act, bipartisan, unanimous. And then 20 million people lost their jobs. Unemployment reached nearly 15 percent, and that is the highest rate since the Great Depression. And there was no end in sight.

Now let's consider what would have happened if Congress had not acted. Maybe another Great Depression, the loss not just of individual businesses, but of entire industries, and millions of people out of work with no prospect of finding a new job, rising poverty across the country, and negative economic and social impact lasting for generations.

So, some like charts. I love analogies. We had a five-alarm fire raging out of control. We were trying to put that fire out with water passed in buckets as fast as possible, and the buckets had holes. Speed mattered, as we have discussed, which meant that there was a trade-off between trying to fix the holes and precisely passing the buckets so no water spilled and getting the water as quickly and effectively as possible to the fire lines. And unfortunately, that would mean not getting 100 percent of the water to the flames.

Does anyone here want to claim we failed in our primary goal of putting out the fire?

Are you asserting that the millions of Americans out of work at the time and otherwise unable to feed their families or keep roofs over their heads didn't receive desperately needed assistance?

Is anyone arguing that we should not have stood up these programs?

Last month, this economy created more than 500,000 jobs, 12 million jobs just in the past 2 years, and employment, as also has been noted today, is at its lowest rate in 54 years.

So my questions to our panel, as we have discussed today the breadth and sophistication of the many unemployment insurance schemes and the ongoing efforts to pursue criminals and reclaim the monies, and with an eye towards making sure that we are better prepared if we face a similar crisis, what should have or could have Congress and the Trump Administration done in 2020 to better protect against fraudulent claims, and what should we be doing now?

And I will start with you, Mr. Dodaro.

Mr. DODARO. First, the legislation that Congress passed in 2016 was to get agencies prepared to prevent fraud. That needs to be effectively implemented. It is still not effectively implemented at

the Labor Department or at the Small Business Administration and others. So, we are slightly better prepared than we were before, but we are not fully prepared for the next emergency so that, to use your analogy, that, you know, we saved—you know, the fire doesn't do as much damage as it does before, we put it out. And that—all right?

And so, secondly, there needs to be more oversight by the Congress to make sure agencies put these anti-fraud prevention measures in place, and deal with improper payments. Since 2003, when agencies have been required to report improper payments, there has been $2.4 trillion in improper payments. This is a problem that is pervasive across the government. Last year, 86 programs, 16 different agencies. More attention needs to be put on these two matters.

Mr. SCHNEIDER. Great, thank you.

Mr. Turner.

Mr. TURNER. For us I would say data access. If Labor OIG had data access from the start, instead of having to wait five or six months to get it, we would have been able to move out and identify some of these issues a lot earlier. So, for us, that would be the key.

And although the Department has gotten better with that, they are assisting us, but it is a temporary solution that we have in a—in place right now. And so, we hope that we can get something more permanent, and we would hate to resort back to IG subpoenas.

Mr. SCHNEIDER. Okay. Mr. Horowitz.

Mr. HOROWITZ. IT modernization, what Mr. Dodaro said on that.

Transparency, greater transparency into data. Justice Brandeis famously said, "Sunlight is the best of disinfectants.' Get that information out. We need it. The IG needs it.

And third, data analytics, the ability to cross-match data. One person shouldn't be able to take their Social Security number to 40-plus states to get benefits.

Mr. SCHNEIDER. Thank you. And if I can quote my friend, Mr. Kelly, we shouldn't be pointing fingers. Let's find a way to work together and solve this problem, make sure we don't face a crisis like this again.

I yield back.

Chairman SMITH. Thank you, Representative.

We want to highlight again the purpose of this hearing is to investigate the size and scope of fraud in the Federal unemployment program, which more than doubled in the last few years during the pandemic. The purpose is to investigate fraud.

I would like to introduce—recognize the gentleman from Ohio, Mr. Carey.

Mr. CAREY. Thank you, Mr. Chairman, and I want to thank the witnesses for your time and your patience with all the questions that you are getting asked.

We highlighted, I think throughout today, the importance that state auditors have in—across the country. To that end, Keith Faber, who is our state auditor, actually issued a report. And in it—in the—which I will be eventually putting it to the record—Ohio estimated—is estimated to have paid over a billion in fraudu-

lent unemployment benefits from March 2020 to 2022. And I think my colleague from Ohio highlighted the fact that both our governor, our lieutenant governor, and the governor's wife each received the fraudulent claims.

The other thing that the auditor's report identified, which I found interesting, was it identified over $475 million was actually paid to criminals.

So, Mr. Chairman, without objection, I would like to submit this for the record.

Chairman SMITH. Without objection.

[The information follows:]

OHIO DEPARTMENT OF JOB AND FAMILY SERVICES

AUDITOR'S REPORT ON UNEMPLOYMENT INSURANCE FRAUD

FOR THE PERIOD MARCH 1, 2020 THROUGH FEBRUARY 28, 2021

OHIO AUDITOR OF STATE
KEITH FABER

OHIO DEPARTMENT OF JOB AND FAMILY SERVICES

AUDITOR'S REPORT ON UNEMPLOYMENT INSURANCE FRAUD

MARCH 1, 2020 THROUGH FEBRUARY 28, 2021

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AUDITOR'S REPORT

Ohio Department of Job and Family Services
30 East Broad Street, 32nd Floor
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We have performed audit procedures for the period March 1, 2020 through February 28, 2021 (the Period), related to the Ohio Department of Job and Family Services' (the Department or ODJFS) administration and fraud prevention and detection efforts pertaining to the Unemployment Insurance (UI) program, including the federal funding related to the COVID-19 pandemic unemployment, under the authority of Ohio Revised Code Section 117.11. We have also included limited information in this report that is outside the period identified above if we deemed that information of significance to the content of this report.

We have performed the procedures enumerated in this report to evaluate the Department's fraud prevention efforts related to UI for the audit period and provide recommendations to management and those charged with governance in the interest of the public.

The information that follows describes the procedures performed during our audit and the related results for those procedures. Our analysis was based on information provided by the Department directly, including processes, reports, and data obtained from a service organization related to the pandemic benefits, the completeness and accuracy of which we could not verify. The Department indicated they reviewed the information prior to providing it for audit. Unemployment Insurance (e.g., individual, employer or employing unit) information is confidential according to 20 CFR 603.4(b), and for that reason we have not included any names or other identifiers in our report results.

This engagement was not a financial or performance audit, the objectives of which would be vastly different. Therefore, it was not within the scope of this work to conduct a comprehensive and detailed examination of the UI activity, test for compliance with program requirements and other federal regulations for the purpose of issuing an opinion on compliance, or evaluate for efficiencies of the processes.

On October 12, 2021, we held an exit conference with the Department's management and discussed the contents of this report. A response was received on October 26, 2021 and was evaluated and included in our working papers.

Keith Faber
Auditor of State
Columbus, Ohio

October 22, 2021

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EXECUTIVE SUMMARY

The Department is responsible for administering the Unemployment Insurance program in Ohio for regular and pandemic claims. Unemployment Insurance is temporary income for eligible workers, individuals who lose their jobs through no fault of their own. Ordinarily, to collect benefits, individuals must be able to work and actively seek work while claiming benefits. However, the federal government allowed states to suspend the work search requirements and then, on March 16, 2020, the Governor signed an executive order waiving work search requirements for all unemployed workers. The General Assembly approved this waiver pursuant to Section 19 of H.B. 197. Additionally, the waiting week was waived in an effort to process claims more expediently. Work search requirements were reinstated by the Governor December 6, 2020 for new claimants and for all claimants on May 23, 2021; the waiting week was reinstated June 20, 2021. To qualify for benefits, individuals must have worked and earned enough wages in covered employment. In Ohio, employers pay tax contributions into the Unemployment Insurance Fund. The Department's Office of Unemployment Insurance Operations (OUIO) determines if an individual qualifies for benefits.

The COVID-19 Pandemic presented the Department with many challenges and obstacles including a sharp increase in the volume of unemployment claims as well as the expansion of regular unemployment benefits by the federal government. The Department did not have the man-power or technology resources to adequately deal with this drastic increase in claim activity and the addition of new federal unemployment funding. The Department's legacy unemployment System, Ohio Job Insurance (OJI), has been in place since 2004. Due to its age and functionality, it was unable to handle the increased volume of claimants brought on by the pandemic. Therefore, the Department contracted with a service organization for processing of pandemic unemployment benefits and maintaining key functions of the benefit claims processing, which were customized to fit Ohio's needs (effective May 14, 2020). This outside system, the Unemployment Framework for Automated Claim & Tax Services (uFACTS) System, was used for certain pandemic benefits only.

During this time-frame, the fraud imposters recognized the opportunity presented by the unprecedented increase in unemployment claim activity, the relaxed eligibility and employment/earnings verification requirements associated with the new expansion of benefits, and the stress being placed on the Department and its systems to get benefits processed and into the hands of unemployed Ohioans. The combination of high claim volume and the increase in imposter fraud negatively impacted the Department's ability to keep up, creating a backlog of claims pending adjudication.

In August 2020, the Department created a Fraud Dashboard to monitor and investigate fraudulent issues, trends, and potential overpayments, including fraudulent overpayments. In late January/early February 2021, the Governor initiated the Public-Private Partnership (P3) Project, a team of consultants/subject matter experts from 12 private sector companies with expertise in fraud, call center operations, and claims processing. The P3 Project worked with the Department and the service organization to strengthen fraud prevention, prioritize payment of claims to real Ohioans, segment fraudulent claims out of the adjudication backlog, and improve communication capabilities. In addition, the Department, in consultation with the service organization and the P3 Project, took steps to strengthen the ID verification processes for both the OJI and uFACTS systems starting in late March/early April 2021.

The Auditor of State's Office performed procedures for the period March 1, 2020 through February 28, 2021, related to the Department's fraud prevention and detection process for the Unemployment Insurance program. These procedures were performed under the authority of Ohio Revised Code Section 117.11. The following highlights were noted during the audit. All items relate to the audit period, unless otherwise indicated.

- The OJI system processed approximately $9.8 billion in regular unemployment benefits, including pandemic assistance for the Federal Pandemic Unemployment Compensation, Pandemic Emergency Unemployment Compensation, State Extended Benefits, and Lost Wage Supplemental Payment Assistance programs.

- The uFACTS system processed approximately $8.1 billion in pandemic unemployment for the Pandemic Unemployment Assistance, Federal Pandemic Unemployment Compensation, and the Lost Wage Supplemental Payment Assistance programs.

- The Department contracted with a service organization to process the pandemic unemployment benefits and maintain key functions of the benefit claims process. The system used by the service organization was uFACTS. The Department did not establish procedures to determine whether the service organization had sufficient controls in place and if they were operating effectively, nor did the Department obtain a Report on Management's Description of a Service Organization's System and a Service Auditor's Report on that Description and on the Suitability of the Design and Operating Effectiveness of Controls (SOC 1 Type 2). During the fiscal year ended June 30, 2020 audit of the State of Ohio, we could not obtain reasonable assurance about the accuracy and completeness of the amounts included in the Business-Type Activities and Unemployment Compensation funds within the State's financial statements and we modified our opinions thereon.

- The Federal stimulus legislation that created the pandemic unemployment programs expired for Ohio on September 4, 2021. Individuals had until October 6, 2021 to file an unemployment claim to collect the pandemic assistance.

- Overpayments are benefits paid to an individual who is not legally entitled to receive these benefits. Losses through embezzlement or by theft, other than through the benefit payment process, are not counted as overpayments. Overpayments are reported to the U.S. Department of Labor (DOL) in the quarter in which they occur, which is once adjudication is complete. A fraud overpayment occurs when the material facts related to a determination or payment of a claim are found during the adjudication process to be knowingly misrepresented or concealed (i.e., willful misrepresentation) by the claimant in order to obtain benefits to which the individual is not legally entitled. A non-fraud overpayment occurs when the state agency determines, through adjudication, the overpayment is not due to willful misrepresentations. Non-fraud overpayments result from reversals, state agency errors, employer errors, and claimant errors. The Department reported approximately $477 million in fraudulent overpayments and $3.3 billion in non-fraudulent overpayments to the DOL between April 1, 2020 and June 30, 2021.

- Benefit payments were below $900 million for the three fiscal years prior to the pandemic; after the pandemic, benefits rose to $9.4 billion in 2020 and $14.2 billion in 2021. There was also a significant increase in both the fraud and non-fraud overpayments. Fraud overpayment were approximately 1.3% of benefits in the three prior years, but increased to 3.3% in 2021; non-fraud overpayments were approximately 2.2% in prior years, rising to 23.1% in state fiscal year (SFY) 2021. Although pandemic funding began in the last quarter of 2020, the adjudication process for these claims did not take place until fiscal year 2021. This, coupled with the increased volume in claims and fraud schemes, along with the additional cross-matches and other efforts implemented by the Department to identify overpayments contributed to these large increases.

- The Department will attempt to collect overpayments by sending an appealable overpayment determination to the claimant. If repayment is not received within 45 days after the payment is due, the amount will be certified to the Ohio Attorney General for collection pursuant to Ohio Rev. Code Section 131.02. At the beginning of SFY 21, the Department and the Ohio Attorney General's Office mutually agreed not to actively pursue collections of non-fraud debt that would be subject to a federally authorized waiver during the pandemic (i.e., state agency error and not the fault of the claimant) or debt suspected to be incurred due to identity theft, in an effort to project Ohio citizens. Furthermore, in the Unemployment Insurance Policy Letter (UIPL) 20-21, the federal government gave discretion to states to waive the need for a repayment of pandemic funding related to non-fraud overpayments. The claimant must request the waiver from the Department to avoid repayment. In an August 27, 2021 news release, the Department indicated ". . . to date, approximately 18% of those contacted have completed applications for waivers. Review of these applications will begin soon, once system programming is complete."

- We obtained a data file of adjudicated fraudulent issues and potential fraudulent issues from the Department, which represented issues assigned to the Benefit Payment Control (BPC) Adjudicators for the period under review. These files contained 198,699 issues, totaling approximately $574 million, adjudicated as fraud and approximately 2.8 million issues, totaling approximately $390 million, identified as potential fraud which were pending evaluation by the Adjudicators for the period under review. The following factors contributed to significant spikes in the adjudicated claims:
    - In May 2020, OJI adjudicated fraudulent issues increased significantly and remained consistent through December 2020 due to an increased volume in unemployment claims received by the Department because of COVID-19.
    - In December 2020, uFACTS adjudicated fraudulent issues increased significantly due to a mass adjudication. The Department performed a mass adjudication for a large number of uFACTS claims in which the claimant did not respond to the Department's fact-finding requests for additional information. These claimants were deemed ineligible and the issues closed.
- We documented the Department's internal controls and performed testing over fraud prevention and detection for the unemployment insurance claims.
    - OJI claims:
      The fraud issues for adjudicated claims were not detected/flagged within 30 days from the benefit week ending date; the average was 120 days.

      The fact-finding questionnaire for the adjudicated claims was not sent within seven days of the issue determination date; the average was 128 days.

      The Notice of Determination was not issued within 21 days; the average was 112 days.
    - Both systems:
      Fact-finding date preceded the issue detection dates, as a result the Department did not send the fact-finding questionnaire and relied upon documentation received for a previous issue.
    - uFACTS claims:
      The fraud issues for adjudicated claims were not detected/flagged within 30 days from the initial application date; the average was 128 days.

      The Notice of Determination was not issued within 21 days; the average was 166 days.
- We documented the Department's internal controls and performed testing over the unemployment benefit claims paid through OJI and uFACTS.
    - OJI claims:
      The Department did not send a Request to Employer for Separation Information Form to the employer. At the beginning of the pandemic, when the Governor issued the stay at home order and businesses closed, the Department made a management decision to allow claimants to file using a special COVID-19 designated mass layoff number to expedite the claim filing process; the use of this number ended May 28, 2020. This resulted in the Department processing claims without obtaining the claimant's unemployment eligibility from the employer.

      The unemployment benefit claims payment was not made in a timely manner; the average was 61 days.

- uFACTS claims:
  The system was missing the required documentation to support the claimant's eligibility and benefit payment calculation (i.e., COVID-19 attestation questionnaire, wage information, identify verification).

- Fraud was discussed with Department officials several times during the 2020 financial audit, yet on May 27, 2020 and again on February 10, 2021, the now former Director testified in front of both the Ohio House of Representatives' Ways and Means Committee and Finance Committee, respectively, that she was aware of the unemployment fraud committed at the recipient level due to the spike in claims filed during the COVID-19 pandemic. This is contradictory to what was stated as part of the 2020 financial audit. However, in our interviews as part of this audit, Department officials indicated the 2020 audit responses were interpreted to only identifying internal/employee-related fraud within ODJFS at the county and state levels, not fraud committed by recipients.

- We requested various electronic data files from the Department; however, obtaining and validating this data proved to be very difficult. The volume of data, the need to coordinate with a third party vendor, the specificity of data elements required, and the lack of a viable secondary source to validate the data against all contributed to the difficulty in obtaining and validating the completeness and accuracy of the data.

  Using the data we obtained, we performed a series of 12 data analysis queries utilizing OJI and uFACTS benefit claims paid data Significant results included payments made to deceased individuals, and incarcerated individuals, SSNs associated with four or more bank accounts, unique bank account and routing number combinations associated with multiple individuals, and addresses associated with five or more individuals.

- From inception of the OJI and uFACTS systems, the Department had some processes in place to verify the identity of claimants prior to processing claims. To help combat the various fraud schemes encountered during the pandemic, ODJFS, in consultation with the service organization and the P3 consultants brought into the process by the Governor, took steps to strengthen the ID verification process in account registration process for both the OJI and uFACTS systems. Experian and LexisNexis ID Verification tools were implemented in OJI and uFACTS respectively.

  We performed a walkthrough and reviewed documentation for both the Experian and LexisNexis processes. Documentation related to the implementation of Experian and LexisNexis was also reviewed to ensure a formal change management process was followed to implement this functionality.

- We received numerous complaints from the public who were impacted by unemployment fraud that occurred during the COVID-19 pandemic, including one individual whose claim was outside our audit period. Therefore, we inquired with the Department to determine how the fraud occurred, if payments were issued to the individual, if the Department was aware of the fraud complaint, and if the Department had record of the individual self-reporting the fraud.

Recommendations Summary

This report includes 10 recommendations to the Department which we believe will help improve the operations related to Unemployment Insurance. We have summarized these recommendations below. Due to the limited nature of our audit, we have not fully assessed the cost-benefit relationship of implementing these recommendations. In addition, these recommendations are limited to the results of procedures performed during this audit and may not reflect all deficiencies or weaknesses in the process. However, these comments reflect our continuing desire to assist the Department. Should management have any questions or concerns regarding these comments, please do not hesitate to contact us.

Recommendation 1:

The Department should continue to strengthen current internal control procedures over the unemployment benefit claims paid through OJI and uFACTS and ensure that proper documentation is obtained from the claimant and/or employer prior to processing the benefit claims. This should include developing policies and procedures to specifically address situations beyond the physical and environmental disasters identified in their disaster recovery plan, such as the COVID-19 pandemic, which could impair their ability to effectively operate.

Recommendation 2:

The Department should re-evaluate the internal control procedures over the timing of the fact-finding questionnaires generated by the OJI and/or uFACTS systems once an issue has been created. The Department should develop a procedure to document and/or link the fact-finding information in both systems when it's obtained for a previously created issue and relied upon for current issue. In addition, the Department should implement and evaluate the cross-matches for both systems. The Department should periodically review the cross-match documentation to ensure the matches are being performed timely and as intended, and develop a report to monitor the aging of issues created by these cross-matches.

Recommendation 3:

The Department should amend the contract with the service organization to require an annual SOC 1 audit or similar independently performed procedures. Department management should perform a timely review of the SOC 1 report and other procedures, and implement appropriate procedures to monitor service organization activities and track any system changes or issues submitted to the service organization.

Recommendation 4:

The Department should coordinate with the service organization to develop and implement internal control procedures to provide assurance the ETA 902P reports are accurate, complete, and in compliance with federal requirements.

Recommendation 5:

The Department should identify internal and external fraud risks that could materially misstate the financial activity for the Department within the State of Ohio's financial statements. The Department should report any known fraud, both internal and external, to the auditors as soon as the fraud is identified.

Recommendation 6:

The Department should update the ODJFS Continuity of Operations Plan and the ODJFS Pandemic Plan to assess and define the actions and strategies necessary to maintain appropriate levels of human resources as well as data processing capabilities in the event of an emergency, such as the COVID-19 pandemic.

Recommendation 7:

The Department should continue its efforts to replace Ohio's OJI with a system more responsive to customer needs, expectations, and reduce maintenance and technology update costs. The Department should identify and understand the fraud prevention and detection functionality designed into the Insurance System Transformation (UIST) system and incorporate any additional fraud prevention/detection functionality deemed necessary into the design prior to finalization of the project and implementation into production. ID verification functionality similar to Experian and LexisNexis should be incorporated into any fraud detection/prevention toolset being considered.

Recommendation 8:

The Department should take steps to investigate any known or potential fraud case where payments were made to identify the source of the fraud and recoup the funds.

Recommendation 9:

The Department should take steps to review edits programmed into the unemployment benefit systems related to entry of key personal and demographic information including but not limited to claimant name, address, and banking information to ensure information entered into these fields is consistently formatted.

Recommendation 10:

The Department should evaluate existing internal controls related to non-fraud overpayments, including employee training. The Department should also utilize the fraud dashboard and other available resources to identify potential issues that could result in non-fraud overpayments and take the necessary steps to evaluate them prior to payment in order to reduce the amount of non-fraud overpayments that require collection.

BACKGROUND

GENERAL INFORMATION

The Ohio Department of Job and Family Services is the single state agency responsible for administering the Unemployment Insurance Program (UI) in Ohio. This program is designed to provide monetary support to individuals who are experiencing temporary unemployment. In 2020, as a result of the COVID-19 pandemic, the federal government expanded the regular unemployment benefits with the following new funding, collectively referred to as pandemic unemployment:

- Pandemic Unemployment Assistance (PUA)
- Pandemic Emergency Unemployment Compensation (PEUC)
- Federal Pandemic Unemployment Compensation (FPUC)
- Lost Wage Supplemental Payment Assistance (LWA)

Regular UI [1] Available for 26 weeks in the benefit year	**PUA** Available February 2, 2020 – December 26, 2020; extended through September 4, 2021	**PEUC** Available March 29, 2020 – December 31, 2020; extended through September 4, 2021	**FPUC** Available March 29, 2020 – July 25, 2020; extended through March 14, 2021; extended again through June 26, 2021	**LWA** Available August 1, 2020 – September 5, 2020
Unemployment Insurance is a program paid to individuals who lose their job through no fault of their own. To be eligible, the claimant must have worked in covered employment for a minimum of 20 weeks in the last 18 months, making an average weekly wage of at least $280.	PUA provided up to 39 weeks of benefits to many who did not historically qualify for unemployment benefits, such as self-employed workers, 1099 tax filers, part-time workers, and those who lacked sufficient work history. The program also provided individuals who exhausted all regular UI benefits and any federal and state extensions. Claimant may be eligible for 13 weeks of additional benefits with this program.	PEUC provided up to 13 weeks of emergency unemployment benefits to individuals who remain unemployed after they exhausted their maximum 26 weeks of regular unemployment. States were required to offer flexibility in meeting "actively seeking work" requirement if individuals were unable to search for work because of COVID – 19, including illness, quarantine, or movement restriction.	FPUC provided $600 per week in addition to other weekly benefit amount to individuals. Benefits were reduced to $300 per week from August 1, 2020 through March 14, 2021, and extended through June 26, 2021.	LWA provided up to $300 per week to those individuals who were made partially or fully unemployed by the pandemic. Claims had to be filed or in process prior to December 27, 2020.

During the period of March 1, 2020 through February 28, 2021, the Department reported approximately $17.830 billion in UI benefit payments ($4.698 billion Regular UI and $13.132 billion Pandemic UI) issued to 1,920,304 claimants (47,156 Regular UI and 1,873,148 Pandemic UI).

1 Includes Unemployment Compensation for Federal Employees (UCFE), Unemployment Compensation for Ex- Service Members (UCX), and Trade Readjustment Allowances (TRA/TAA/RTAA)

Claimants can choose between two primary methods of payment for unemployment benefits: EFT (electronic ACH) or debit card. In addition, paper warrants can be issued under certain circumstances. The table below identifies the unemployment benefit claims disbursed by the Department through the OJI and uFACTS systems during the period under review:

UI Funding Type	Payment Type	Amount Paid	Number of Transactions
Regular & Pandemic UI – OJI	Debit Cards	$1,462,252,977	4,036,455
	Electronic ACH	$8,242,485,850	21,350,543
	Paper Warrants	$55,946,648	156,119
	Subtotal OJI Regular & Pandemic UI	**$9,760,685,475**	
Pandemic UI - uFACTS	Debit Cards	$1,804,835,321	4,624,952
	Electronic ACH	$6,264,394,355	13,331,894
	Subtotal uFACTS Pandemic UI	**$8,069,229,676**	
	Total UI Benefits Paid:	**$17,829,915,151**	**43,499,963**

Note: Amounts included in this report have been rounded to the nearest dollar, unless otherwise indicated.

Regular unemployment and portions of the pandemic funding (i.e., FPUC, PEUC, State Extended Benefits, and LWA) benefits are processed through the OJI benefit system, a system the State of Ohio has utilized since 2004. OJI administers unemployment benefits including; accepting and processing unemployment claims, maintaining employer records, determining monetary and non-monetary eligibility, requesting separation information, issuing determinations, charging employers, charging the mutual account, processing appeals and issuing re-determinations. The OJI system includes automated controls to ensure benefits are not paid in excess of the maximum allowable amount or outside of the benefit year end.

However, the OJI system, due to its age and functionality, was not able to handle the increased volume of applicants brought on by the pandemic. Therefore, the Department contracted with a service organization, Deloitte, for processing of pandemic unemployment benefits and maintaining key functions of the benefit claims processing, which were customized to fit Ohio's needs (effective May 14, 2020). This outside system, the uFACTS System, was used for PUA/FPUC/LWA benefits only. As part of the service organization's agreement, Deloitte was responsible for; designing the system to comply with federal guidelines (with the Department's input), providing training and security, and hosting the software. Deloitte was also responsible for managing a call center, production of various system reporting, and responding to external requests. Deloitte, the primary service organization, contracted with a subservice organization to provide cloud services. However, as reported in the State of Ohio report for state fiscal year 2020, the Department did not establish procedures to determine whether the service organization had sufficient controls in place and if they were operating effectively, nor did the Department obtain a Report on Management's Description of a Service Organization's System and a Service Auditor's Report on that Description and on the Suitability of the Design and Operating Effectiveness of Controls (SOC 1 Type 2) in accordance with Attestation Standard AT-C 320 specific to the uFACTS system design and implementation, nor did the Department verify the service organization had implemented the complimentary user entity controls required by the subservice organization, to ensure pandemic unemployment benefits were paid to eligible claimants and processed completely and accurately (*see Recommendation 3*). During the fiscal year ended June 30, 2020 audit of the State of Ohio we could not obtain reasonable assurance about the accuracy and completeness of the amounts included in the Business-Type Activities and Unemployment Compensation funds within the State's financial statements and we modified our opinions thereon. We will evaluate and review procedures implemented by the Department to determine whether or not the service organization had sufficient controls in place and if they were operating effectively as part of the SFY 2021 State Single Audit. A recommendation will be made related to business continuity and pandemic/disaster preparedness (*see Recommendation 6*).

UNEMPLOYMENT FRAUD AND NON-FRAUD OVERPAYMENTS REPORTING

Overpayments are benefits paid to an individual who is not legally entitled to receive these benefits. Losses through embezzlement or by theft, other than through the benefit payment process, are not counted as overpayments. Overpayments are reported to DOL in the quarter and/or month in which they occur, which is once adjudication is complete. A fraud overpayment occurs when the material facts related to a determination or payment of a claim are found during the adjudication process to be knowingly misrepresented or concealed (i.e., willful misrepresentation) by the claimant in order to obtain benefits to which the individual is not legally entitled. A non-fraud overpayment occurs when the state agency determines, through adjudication, the overpayment is not due to willful misrepresentations. Non-fraud overpayments result from reversals, state agency errors, employer errors, claimant errors, and other, as defined below.

- **Reversals:** Those overpayments that result from redeterminations or appeal decisions that reverse or overturn earlier determinations under which benefits were paid.
- **State Agency Errors:** State workforce agency actions or omissions that cause errors in computing the benefit amount, payment for a non-compensable waiting week, incorrect weekly payment for failure to consider deductible amount, payment beyond the expiration of the benefit year ending date or exhaustion of benefits, payment under incorrect program, payment during a period of disqualification, payment to the wrong claimant, etc.
- **Employer Errors:** Errors attributable to employers include noncompliance with notification and reporting requirements in a timely and/or accurate manner, and incorrect reporting of base period wages.
- **Claimant Errors:** Errors attributable to claimants include misrepresentation of the facts, failure to provide timely and/or accurate information to support a claim of benefits, or a general misunderstanding of obligations and benefit rights.
- **Other Errors:** All other non-fraud overpayments that were not included in previous categories. Examples include monetary redeterminations that cause an overpayment, a back payment of pension or SSA, or other deductible income that was not known to the claimant, agency, or employer at the time of filing the new claim or the weekly continued claim.

Overpayments are not a new concept for Unemployment; however, the amount of overpayments has increased significantly for the pandemic funding *(see Recommendation 10)*. The table below provides a historical perspective of overpayments in relation to benefits paid for the last five state fiscal years. Note, the amounts reported for our audit period within this report cover portions of two state fiscal years and, therefore, will not tie directly to the amounts shown in this table.

	State Fiscal Year Ending June 30				
	2017	2018	2019	2020	2021*
UI Benefits Paid	$ 879,235,704	$ 842,901,525	$ 758,511,144	$9,356,167,147	$14,192,816,505
Fraud Overpayments	$ 11,738,099	$ 9,554,804	$ 10,035,951	$ 8,991,970	$ 474,576,354
Fraud Claims	9,537	7,390	7,240	8,842	230,753
Percentage of Fraud Overpayments	**1.34%**	**1.13%**	**1.32%**	**0.10%**	**3.34%**
Non-Fraud Overpayments	$ 18,999,152	$ 18,599,147	$ 17,900,120	$ 108,122,449	$ 3,271,817,798
Non-Fraud Claims	32,258	32,179	31,378	165,541	2,546,696
Percentage of Non-Fraud Overpayments	**2.16%**	**2.21%**	**2.36%**	**1.16%**	**23.05%**

*unaudited

As indicated above, there was a significant increase in both the fraud and non-fraud overpayments in state fiscal year 2021. Although pandemic funding began in the last quarter of 2020, the adjudication process for these claims did not take place until fiscal year 2021. This, coupled with the increased volume in claims and fraud schemes, along with the additional cross-matches and other efforts implemented by the Department to identify overpayments contributed to these large increases. The Department is required to report the overpayment data to the DOL in the following reports.

The Employment and Training Administration (ETA) 227 – Overpayment Detection and Recovery Activities report provides information on overpayments of intrastate and interstate claims under the regular state Unemployment Insurance program, and has been required by the federal government since December 1984. This report includes overpayment activities for claimant errors, controllable errors (wage/benefit cross-match, claims audits, national directories of new hires and state directories of new hires), employer errors, federal income tax offset, fictitious employer detection system, fraud overpayments, non-fraud overpayments, joint claims, multi-claimant schemes, etc. This report is due quarterly, the first day of the second month after the quarter to the DOL. Data for the ETA 227 report is obtained from OJI and the Department creates a spreadsheet containing the supporting documentation, which is maintained for audit purposes.

The ETA 902P – Pandemic Unemployment Assistance Activities report was created by the federal government as part of the pandemic funding and contains monthly data on PUA activities provided by the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The report is due monthly to DOL through the end of the pandemic assistance period and until all payment and appeals activity is complete. This report includes the number of applications, number of claimants determined eligible, and overpayments related to fraud, identity theft, identity theft overpayments, and regular overpayments. Data for the ETA 902P is obtained from uFACTS and the appeals data from the Unemployment Compensation Review Commission. As of May 2020, the Department completed their initial testing of the uFACTS data elements for the ETA 902P report as part of the initial user acceptance testing of this new system. Any discrepancies noted were communicated to the service organization for correction. The Department could not verify the accuracy and completeness of the monthly uFACTS data reported since there were no system generated reports for the Department to monitor the potential overpayments, including fraud. Additionally, there were no output reports from the Unemployment Insurance Data Base since PUA was a new program and no comparative data existed, thereby increasing the Department's reliance on the data validation process prior to submission (*see Recommendation 4)*. In addition, the federal government did not require the same level of detail regarding the categories of overpayments.

Both of these reports are submitted by the Department's OUIO Finance Section to DOL via the Unemployment Insurance Data Base System (UIDB) operated by the SUN Enterprise Servers. The ETA 227 report is subject to DOL's Unemployment Insurance Data Validation (UIDV) program which is used to verify the accuracy of each report.

In May 2021, the Department implemented data validation controls for the ETA 902P report which resulted in the Department amending the original ETA 902P reports submitted to the DOL. Data for the ETA 902P is obtained from uFACTS and the appeals data from the Unemployment Compensation Review Commission. The Department obtains the uFACTS data from the service organization and the appeals data from the Unemployment Compensation Review Commission. After the service organization delivers the report to UI Systems Support (UISS), the Department reviews the records at an aggregate level to determine if any information should be questioned due to extreme high or low counts. Afterwards, UISS reviews individual records by sampling and verifying the transactions are accurate. If any records are identified as materially incorrect, the defects are reported to the service organization for an explanation and resolution. Once UISS reviews the report, it is provided to the OUIO's Finance Reporting Section who completes a review to identify any concerns with the aggregate data. Finally, after their review OUIO's Finance Reporting Section uploads the report to the DOL website. We will evaluate and review these validation controls over the ETA 902P as part of the SFY 2021 State Single Audit.

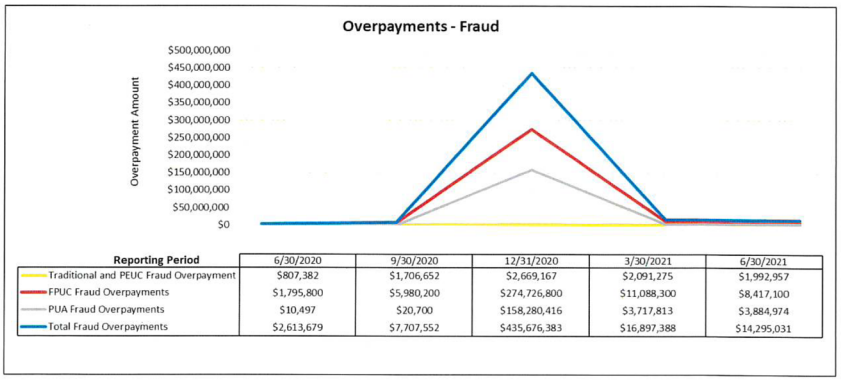
The Department updated and amended the ETA 227 and 902P reports to the DOL based on the overpayment amounts changing due to the following:

- Not all overpayments were being appropriately reported, the Department applied a logic fix to both reports, if applicable;
- In testing adjustments, the Department determined they were counting overpayments twice (i.e., when the monetary redeterminations occurred even though the overpayment had already been reported previously). The Department applied a logic fix to both the reports, if applicable;
- Ensuring the LWA was not included in the PFUC 227 report; and
- UIPL 16-20 Change 4 related to program extensions and the Id Theft section was incorporated into the report, as well as overpayment recoveries for the ETA 902P.

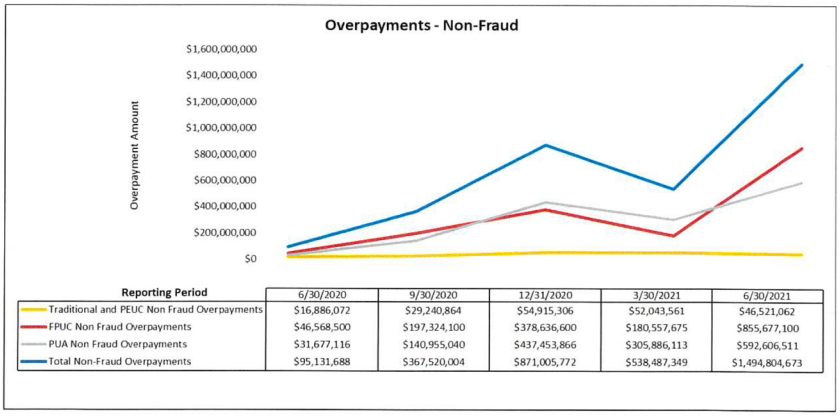
We compared the DOL data extracts for the ETA 227 and 902P reports from the March 31, 2021 submissions to the June 30, 2021 submissions and no significant variances were noted. Therefore, we utilized the June 30, 2021 data extracts to analysis the fraud and non-fraud overpayment trends identified below.

Overpayment Fraud and Non-Fraud Trend Analysis amounts in the graphs below were obtained from the updated data extracts on the DOL website for the ETA 227 and ETA 902P reports. The ETA 227 report and the ETA 902P reports are submitted on a quarterly and monthly basis, respectively; therefore, we summarized the ETA 902P monthly data to equate to each quarter. The graphs were utilized to identify the trends in overpayments and the identification and reporting of fraud. Since the data extracts are only available on a quarterly basis, we extended the review past the end of the Period to June 30, 2021 to provide a current analysis of the fraud vs. non-fraud overpayments. *Note: The FPUC amounts could tie to either OJI or the uFACTS systems as the additional compensation is set on the initial program determination (i.e., traditional or PUA).* To ensure the accuracy and completeness of the DOL data extracts, we performed substantive testing over the March 31, 2021 report for ETA 227 and 902P reports. Both reports were mathematically accurate and traced to the appropriate supporting documentation, including the DOL data extract amounts for March 31, 2021.

Overpayments 4/1/2020 thru 6/30/2021:	
Total Fraud Overpayments	$477,190,033
Total Non-Fraud Overpayments	$3,366,949,486
Grand Total	$3,844,139,519



Reporting Period	6/30/2020	9/30/2020	12/31/2020	3/30/2021	6/30/2021
Traditional and PEUC Fraud Overpayment	$807,382	$1,706,652	$2,669,167	$2,091,275	$1,992,957
FPUC Fraud Overpayments	$1,795,800	$5,980,200	$274,726,800	$11,088,300	$8,417,100
PUA Fraud Overpayments	$10,497	$20,700	$158,280,416	$3,717,813	$3,884,974
Total Fraud Overpayments	$2,613,679	$7,707,552	$435,676,383	$16,897,388	$14,295,031



Reporting Period	6/30/2020	9/30/2020	12/31/2020	3/30/2021	6/30/2021
Traditional and PEUC Non Fraud Overpayments	$16,886,072	$29,240,864	$54,915,306	$52,043,561	$46,521,062
FPUC Non Fraud Overpayments	$46,568,500	$197,324,100	$378,636,600	$180,557,675	$855,677,100
PUA Non Fraud Overpayments	$31,677,116	$140,955,040	$437,453,866	$305,886,113	$592,606,511
Total Non-Fraud Overpayments	$95,131,688	$367,520,004	$871,005,772	$538,487,349	$1,494,804,673

OVERPAYMENT RECOVERIES

Department policies indicate they will attempt to collect overpayments by sending an appealable overpayment determination to the claimant. If repayment is not received within 45 days, the amount is certified to the Ohio Attorney General for collection pursuant to Ohio Rev. Code Section 131.02. However, in UIPL 20-21, the federal government gave discretion to states to waive the need for a repayment of pandemic funding related to non-fraud overpayments. In these cases, the claimant must request the waiver from the Department to avoid repayment. In an August 27, 2021 news release, the Department indicated "Since July, ODJFS notified approximately 700,000 Ohioans with non-fraud overpayments that they may be eligible for a waiver if the overpayment was not their fault. More than 73,000 traditional unemployment claimants and 630,000 PUA claimants received emails and/or letters through U.S. mail. To date, approximately 18% of those contacted have completed applications for waivers. Review of these applications will begin soon, once system programming is complete."

At the beginning of SFY 21, the Department and the Ohio Attorney General's Office (AGO) mutually agreed not to actively pursue collections of non-fraud debt that would be subject to a federally authorized waiver during the pandemic (i.e., state agency error and not the fault of the claimant) or debt suspected to be incurred due to identity theft, in an effort to project Ohio citizens. These types of overpayments are placed into quarantine because either the claim is in the waiver application/adjudication process and/or the Department is determining if the overpayment was due to identity theft. The quarantined overpayment amounts are fluid and may change from week to week. The Department and the Ohio Attorney General's Office are working together to identifying overpayments that are added to the quarantine, while others are removed from quarantine to an active collection status. This is all based on whether the claimant is eligible for a non-fraud overpayment waiver and/or whether the Department suspects identity theft.

The Department indicated the following amounts have been certified to the AGO, placed in quarantine (also included in the Activity Certified), and recovered by the AGO for the last three state fiscal years:

	Activity Certified to AGO (includes Quarantine Amounts)		Activity Certified to AGO Placed in Quarantine		AGO Recovery Amount
	# of Claims	Amount	# of Claims	Amount	
SFY 2019	24,369	$ 23,912,220	N/A	N/A	$11,121,685
SFY 2020	22,688	$ 20,324,149	467	$ 410,000	$10,248,692
SFY 2021	159,191	$199,521,608	81,069	$123,300,000	$17,387,638

FRAUD PREVENTION/DETECTION – PRE PANDEMIC IMPACT

Adjudication Process

Customer Service Representatives (CSR), located across the state's 11 processing centers, are responsible for determining the status of unemployment claims, including issues generated by OJI. Issues are set and routed to the CSRs when incomplete or additional verification is required on an application or a continuing claim. The CSR may resolve an issue by sending a Request for Separation to the most recent employer(s) who has 10 days to respond. If the reason for separation is other than lack of work (i.e., layoff), the CSR staff conducted fact-finding and adjudicated the separation issue. If the issue was for insufficient weeks and/or wages in the base period, the claimant was sent an affidavit to document any additional employment. Without the additional employment information, the unemployment claim would be denied. If any other eligibility issue exists (e.g., receiving severance pay, not able to work or unavailable for work, etc.), the CSR staff conducted fact-finding and adjudicated the week(s) affected by the issue. The Department established a 21-day time period to adjudicate OJI issues, based on guidelines from DOL. The volume of OJI issues pre-pandemic averaged 90 per week.

If an issue of fraud was suspected, the CSR routed the issue to the Department's Benefit Payment Control Section (BPC). BPC is responsible for adjudicating fraudulent and potential fraudulent issues and identifying and monitoring benefit overpayments. BPC is notified of potential fraud in several different ways, including various law enforcement entities, ID theft victims, employers, data analysis, or bank seizures. Benefit payments are not stopped or held while issues are being investigated by BPC. The BPC Adjudicators are assigned issues related to potential fraud detected by the call centers or processing centers, cancel benefit rights because the claimant failed to disclose qualifying separation, provided false dependency information, false statement to obtain benefits on the claim or fact-finding responses, and forged warrants . Also, the BPC utilized the following cross-matches to monitor fraud prior to the pandemic:

- Benefit Accuracy Management (BAM) Paid
- EFT Account
- Multi-Claimant/Single Address
- National Directory of New Hires
- Ohio Directory of New Hires
- Wage Record

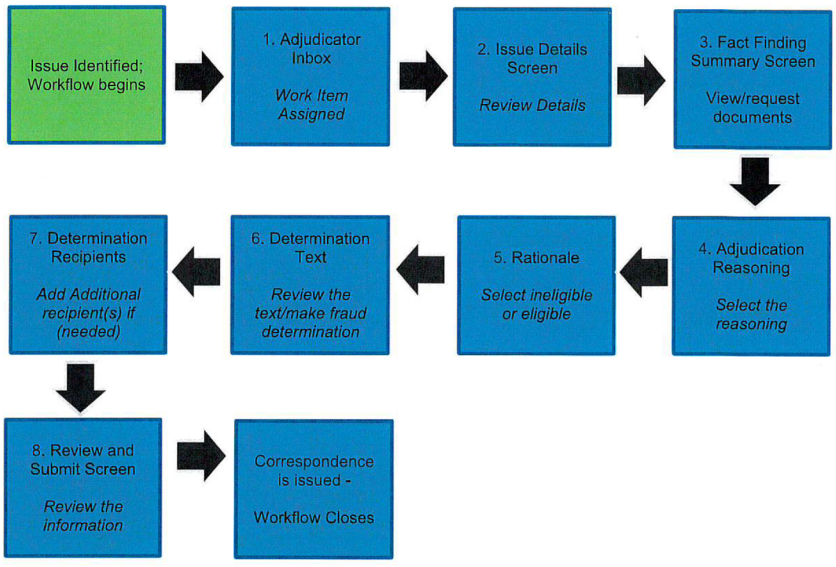
The BPC Adjudicator worked issues by sending a fact-finding questionnaires to the claimant and reviewed the information. The fact-finding questionnaires are tailored for each issue type, for instance, the questionnaire for 'Able or Available' may consist of the following questions:

a) Please explain why you weren't available or able to work?
b) Other than a COVID-19 related circumstance, are you physically able to work at this time?
c) Other than a COVID-19 circumstance, are you available to work?

Fact-finding information is stored in the OJI Issues Summary screen and is viewable even if the issue has been adjudicated. Once the BPC Adjudicator reviews the fact-finding information and the claimant has been determined eligible or ineligible to receive unemployment, a Notice of Determination letter is sent to the claimant informing them that their benefits have been processed or denied.

Weekly, OJI generated a report of issues worked by the BPC Adjudicators and the BPC Chief utilized this report to monitor the Adjudicators progress, cases completed, and the types of issues worked. The weekly report contained the previous week's production and a formula was built into the spreadsheet to calculate the days in which an issue was completed. The OJI weekly report was generated during the pandemic; however, the BPC Chief and staff were not monitoring the report as other items required their attention and staff was reallocated to other areas within the Department (e.g., helped process initial claims and applications).

Adjudication Workflow



If the claimant appealed the initial decision, a redetermination decision was sent to all interested parties. If the claimant appealed the redetermination, an Unemployment Compensation (UC) Review Commission hearing would be scheduled and the hearing officer's decisions sent to all interested parties (21-day appeal period). If the interested party appealed the UC Review Commission's decision, the Common Pleas Court

of Ohio hears the appeal and the resulting decision is sent to all the interested parties (30-day appeal period). And if the interested party appeals the Common Pleas Court's decision, further appeal may be filed with the Court of Appeals in Ohio, Supreme Court of Ohio, and the U.S. Supreme Court.

Program Integrity & Overpayments

After an issue is adjudicated, the BPC staff is also responsible for determining if an overpayment occurred. In order to effectively comply with the overpayment provisions, states must ensure the program integrity of the UI program, which includes effective fraud prevention and detection procedures. These procedures should include:

- Initial and weekly continued claimant certifications confirming the claimant continues to meet the definition of unemployment;
- Participation in the Interstate Benefits System;
- Benefit Accuracy Measurement (BAM) program;
- Establishment of a BPC unit responsible for the prevention, detection, investigation, establishment, and recovery of overpayments; and
- Required BPC cross-matches including: National Directory of New Hires, Quarterly Wage Records, and Systematic Alien Verification for Entitlements (SAVE).

The Unemployment Insurance Benefit Accuracy Measurement (BAM) System is a federally mandated program and required to be organizationally independent of any unit subject to evaluation by the State. State BAM investigations are required to adhere to guidelines established by DOL in accordance with 20 CFR, Part 602. States are required to randomly select samples of UI payments and disqualifying ineligibility determinations, conduct in-depth investigations, and classify findings to provide the basis for diagnosing problems and taking corrective actions. DOL uses the data obtained from the BAM survey to estimate accuracy and improper rates for the populations of paid and denied claims. It is also used, in part, to produce the States improper payment rate statistics, reported in the Annual Report. BAM operations were suspended by the DOL at the beginning of March 2020 due to the pandemic but resumed July 1, 2020 for paid claims and July 1, 2021 for denied claims per ODJFS.

FRAUD PREVENTION/DETECTION – POST PANDEMIC IMPACT

OJI - Adjudication Process

CSR issues were assigned to the 11 processing centers for adjudication based on the claimant's last four digits of their Social Security Number (SSN). Staff adjudicated issues on a first in, first out basis. The volume of issues increased from approximately 90 to 6,000 issues per week during the pandemic. In January 2021, the CSR managers eliminated their individual tracking spreadsheets and moved to one statewide spreadsheet maintained on SharePoint to better monitor issues worked.

If an issue of fraud was suspected, the CSR routed the issue to the Department's BPC Section. These fraud referrals were a part of the claim adjudication process and sent to BPC by email. BPC is responsible for adjudicating fraudulent and potential fraudulent issues and identifying and monitoring benefit overpayments. The Department established a policy for the Adjudicators to review an issue within seven days and then adjudicate the claim within 21-days. However, due to the increased volume in potential fraud and fraud issues, the Adjudicators were adjudicating claims beyond the 21-day requirement. BPC staff were instructed to prioritize and work potential fraud cases that were in active pay status first in an effort to stop additional payments being issued at the time of adjudication. The following cross-matches were used by the Department to detect fraud:

- EFT Account Cross-Match
- Multi-Claimant/Single Address

- National Directory of New Hires
- State Directory of New Hires
- Wage Record Cross-Match
- Incarceration Cross-Match – *New, effective February 2021*
- State Employee Cross-Match – *New, effective February 2021*
- Social Security Administration – *New, effective May 2021*
- Integrity Data Hub/ID Verification – *New, effective Nov. 2020*

OJI automatically generates cross-match reports, with the exception of the Benefits/Wage Record which have to be initiated by the Department and run on a daily and/or quarterly basis (e.g., Ohio New Cross-Match Output Records and Ohio New Cross-Match Wage Requests Issued). By implementing these cross-matches, claimants are flagged for additional fact-finding and adjudication to determine if an overpayment exists. However, BPC experienced delays in reviewing and initiating these investigations during the first months of the pandemic due to the high volume of issues.

The Department is required to make efforts to prevent, detect, and investigate fraudulent activity. The Department utilized the following to prevent and detect fraudulent unemployment benefit claims:

- Validation of claimants with any available external third party sources such as employers, state residency records, death master file, etc. via Social Security Administration cross-match;
- Cross system edits present between OJI and uFACTS to identify and/or prevent duplicate claims, *effective June 2020*;
- System edits to identify potential duplicate records, either matching or partial matching of key data such as SSN, address, name, etc.;
- Fraud referrals via claim adjudication process;
- Mass detection such as DOL or other external tips/fraud alerts including the BPC cross-matches noted above;
- Innovate Ohio/Tableau Data analytics including the Fraud Dashboard, Ohio Department of Health Death cross-match, Ohio Department of Rehabilitation and Correction Inmate cross-match, and OAKS State Employee cross-match;
- Employer and Individual Fraud Reporting Portals, *new effective Feb. 2021*;
- Refusal to Return Employer Portal, *effective April 2020*; and
- ID Theft Portals – Victims, *new effective Jan. 2021* & Employers, *new effective Feb. 2021.*

Note: The identify verification with Experian was not deployed until early April 2021 for OJI claimants.

uFACTS – Adjudication Process

An issue is set when the system cannot determine the impact on the benefit claim or an issue is created based off of cross-match. At this point, an Adjudicator must review the information, known as fact-finding, to make a determination on the benefit claim. When identified, the issue is stored in an issue queue until the issue can be worked by the Adjudicator. Workflow queues track the issue by type: Pre-Adjustments, PUA, Availability, Disaster, Earnings, Fraud, Identify Verification, Other Pay/Pension, etc. Eligibility verifications for uFACTS benefits was voluntarily through Lexis-Nexis until February 2021. If a claimant were to opt out of the ID check, the claim would be queued until the ID documentation could be verified. An initial identity verification was required through Lexis-Nexis and the continued claim self-attestations in order to verify that the claimant was still unemployed for a COVID-19 eligible reason. Wage verification for claimants receiving the minimum Weekly Benefit Amount (WBA) were not required until January 2021.

When a claimant has multiple issues on their account, the issue is auto-assigned to an individual Adjudicator so they must be addressed separately. For example, if one issue asks for identification, then it must be uploaded for fact-finding. Then a second issue for the same claimant asks for the same type of fact-finding, it must be uploaded to the second issue separately as documentation cannot be moved or added from the issue to issue by the Adjudicators.

If the Adjudicator approved the issue, they select the "Eligibility - Able or Available" acknowledging the work that was refused was unsuitable due to COVID-19. If the issue was denied, the Adjudicator will select "Ineligible – Able or Available" acknowledging that the work refused was a refusal of suitable work and denied benefits for the current week. Fact-finding information is stored in the Issues Summary screen and is viewable even if the issue has been adjudicated.

When a claimant is adjudicated as "Eligible", a Notice of Determination of Benefits Letter is sent to the claimant notifying them of their eligibility status and their Weekly Benefit Amount. Once the claim is adjudicated and an overpayment is confirmed, the system automatically generates a Notice of Overpayment Form with details regarding penalty weeks and offsets against future benefit payments.

The claimant has the option to appeal the initial decision, a redetermination decision is sent to all interested parties. Then if the claimant appeals the redetermination, a UC Review Commission hearing is scheduled and resulting hearing officer's decisions are sent to all interested parties (21-day appeal period). If the interested party appeals the UC Review Commission's decision, the Common Pleas Court of Ohio hears the appeal and the resulting decision is sent to all the interested parties (30-day appeal period). And if the interested party appeals the Common Pleas Court's decision, further appeal may be filed with the Court of Appeals in Ohio, Supreme Court of Ohio, and the U.S. Supreme Court.

The Department is relying on queries to track the number of fraud flags and pending cases in order to monitor trends against the initial claims. Nightly, the service organization reviews the system queries and creating fraud flagged issues. These flagged issues are then routed to a specific Queue Management module depending on the type of issue. Daily, the Adjudicator receives queued items in their mailbox within uFACTS. The system is designed to only list one queued case at a time. PUA Adjudication Managers utilize the Queue Management modules to track the progress of issues and ensure all issues are adjudicated accurately and account for all available information. Additionally, there are several supervisor queues within uFACTS divided by issue type and assigned to a supervisor, team. Supervisors monitor the adjudication backlog reports and also complete quality review checks (legislative inquiries, customer calls etc.) in order to ensure issues are completed correctly, processed timely, and documented their review on a spreadsheet. Adjudication Supervisors will review a sample of completed claim adjudications completed during the month for completeness and accuracy. Monthly, Adjudication Supervisors monitor and ensure issues are completed accurately, as evidenced by the Monthly Performance Spreadsheet completed for each adjudicator. If any issues were found to be worked incorrectly, a discussion is had with the staff and the issue is corrected by the supervisor.

The UIPL 23-30 provided states with additional clarification regarding unemployment program integrity. The following BPC activities were mandatory for states to implement for the PUA program:

- National Directory of New Hires Cross-Match
- Quarterly Wage Records Cross-Match
- Systematic Alien Verification for Entitlement

DOL strongly recommended the following additional BPC activities:

- State Directory of New Hires Cross-Match
- Social Security Administration (SSA) Cross-Match
- Interstate Benefits Cross-Match
- State Identification Inquiry
- Identity Verification
- Incarceration Cross-Match
- UI Integrity Data Hub (IDH) tools

The Department implemented the following cross-matches for uFACTS that were processed through an automated batch system.

- Duplicated SSN, Address, Name, Bank Account Numbers, effective late May 2020. Initially ran as ad-hoc queries, now part of the Fraud Dashboard;
- Innovate Ohio. Death, Inmate, Nursing Home and State Employee matches, effective beginning February 2021 and ran on a weekly basis;
- National Association of State Workforce Agencies. Integrity Data Hub (IDH)/Identify Verification Service (IDV), Out of State, effective late October 2020 and ran on a weekly basis;
- Employer/Individual Fraud Reporting Portals. Refusal to work employer reporting, effective August 2020, ID theft victims effective January 2021, and ID theft employers effective February 2021;
- Systematic Alien Verification for Entitlement (SAVE). *Note: this is not a cross-match, but a database check when required;*
- Prohibited Bank Routing Numbers. Created through OIG alerts received and data analysis by the Department. New Applicants are not allowed to utilize routing numbers from the list while claimants already in the system must prove identity to continue using them, *effective July 2020*; and
- Out of State addresses are not allowed, as well as, limits on multiple claimants sharing the same bank account information, effective July 2020.

As reported in the June 30, 2020 State of Ohio Single Audit, the Department did not implement the BPC cross-matches for the PUA benefit payments in uFACTS as required by UIPL 23-30. Additionally, the uFACTS system did not include adequate output reports for the Department to monitor potential overpayments, including potential fraud. This resulted in noncompliance with the program requirements to promptly detect and recover fraudulent overpayments for PUA. The Department's corrective action plan indicated changes were in process.

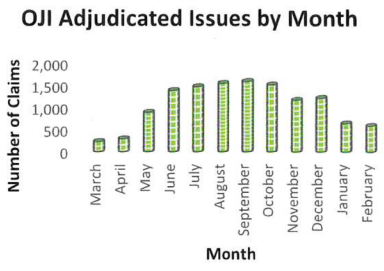
Adjudicated Fraudulent Issues

We obtained a data file of adjudicated fraudulent issues from the Department, which represented issues assigned to the BPC Adjudicators. These 198,699 issues (12,543 for OJI and 186,156 for uFACTS) were adjudicated and determined to be fraud for the period under review.

OJI adjudicated fraudulent issues increased significantly from April to May 2020 and remained consistent through December 2020 due to an increased volume in unemployment claims received by the Department because of COVID-19.

OJI Adjudicated Issue by Type	Number of Issues
Earnings	5,073
Valid Claim – EB	4,136
No Longer Employed	1,896
Other Issue Types	1,438
Total	**12,543**

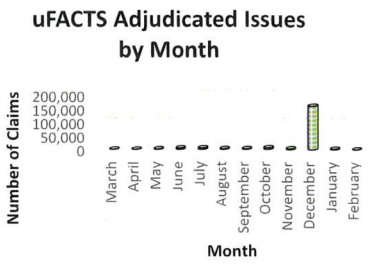
Issues with Overpayment:	
$12,875,239	10,888
Issues without Overpayment:	
$0	1,655
Total	**12,543**



uFACTS adjudicated fraudulent issues surged in December 2020 to approximately 159,500 issues due to a mass adjudication of a large number of claims in which there was no response to fact-finding. These claimants were deemed ineligible and the issues closed.

uFACTS Adjudicated Issue by Type	Number of Issues
Social Security Verification	185,594
Program Eligibility	232
Able/Available for PUA	115
Other	215
Total	**186,156**

Issues with Overpayments: $561,619,843	116,267
Issues without Overpayments: $0	69,889
Total	**186,156**



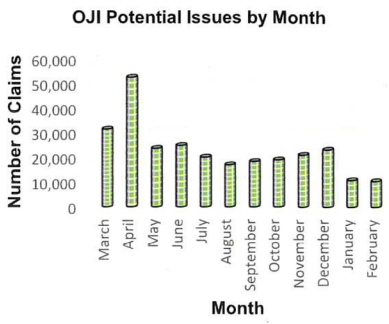
Potential Fraudulent Claims

We obtained a data file of potential fraudulent issues from the Department, which represented issues assigned to the BPC Adjudicators. These 2,815,944 issues (2,542,725 for uFACTS and 273,219 for OJI) may be fraud or non-fraud and haven't been processed by the Department for the period under review.

OJI potential fraudulent issues increased significantly from March to April 2020 and remained consistent from May through December 2020 due to an increased volume in unemployment claims received because of COVID-19 and the BPC staff being reassigned to other areas and unavailable to process the issues.

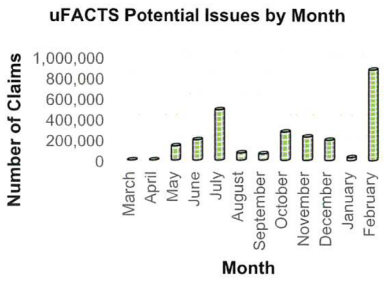
OJI Potential Issue by Type	Number of Issues
No Longer Unemployed	69,088
BPC Specific Issue	42,070
Valid Claim - EB	30,497
Other	131,564
Total	**273,219**

Issues with Overpayments: $36,786,012	46,346
Issues without Overpayments: $0	226,873
Total	**273,219**



uFACTS potential fraudulent issues surged in February 2021 to approximately 873,646 due to a significant increase in initial claims that were flagged as a result of multiple claimants with a single data point. Also, the Department placed temporary measures in place to prevent fraudulent payments from being paid that caused the additional flags (e.g., data analysis with the service organization and private section SMEs).

uFACTS Potential Issue by Type	Number of Issues
Knowing Failure	1,253,574
Social Security Verification	1,289,151
Total	**2,542,725**
Issues with Overpayments:	
$353,337,551	102,035
Issues without Overpayments:	
$0	2,440,690
Total	**2,542,725**



Due to the high volume of issues, if there was no response or no payments made, the Department employed BOTS to clear a specific type of issue without assigning an Adjudicator, referred to as a mass auto-adjudication. The mass auto-adjudication allowed the Department to reduce their backlog and clear approximately 1.8 million issues. As of April 2021, the Department had processed and cleared all issues that were generated in 2020.

Fraud Dashboard

In August 2020, the Department created a Fraud Dashboard to monitor and investigate fraudulent issues, fraudulent trends, and potential overpayments, including fraudulent overpayments. The Fraud Dashboard provides the Department with the ability to identify and detect multi-claimant single data points such as duplications in address, bank account, phone number or any other unique identifier. The Fraud Dashboard also provides the Department summary and claim level data to monitor potential fraud issues based on fraud patterns and trends, percentage of fraud flagged, an aging analysis, and an 8-day view of the adjudication activity. Additionally, BPC investigators utilize the Fraud Dashboard to retrieve information from NASWA's Integrity Data Hub (IDH) and ID Verification (IDV), data that is within the dashboard, to compile evidence for criminal prosecutions. Each unemployment system has their own Fraud Dashboard which is updated on a daily basis.

EVALUATION OF IT PROCESSES AND DATA

DATA ANALYTICS

We requested and the Department provided several data files from both OJI and uFACTS in order to perform our audit; however, we could not independently verify the completeness and accuracy of much of this information. In addition, we obtained a listing of deceased individuals from the Ohio Department of Health's website and obtained files of incarcerated individuals from the Ohio Department of Rehabilitation and Correction related to our audit period, which we utilized in our testing. We also inquired with the Department and the service organization regarding procedures used to process eligibility, payment transactions, and prevent/identify/follow up on fraud.

The Auditor of State's Data and Information Technology Audit (DITA) group obtained the following data files from the Department:

- Adjudicated fraud claims from the OJI and uFACTS systems for the period March 1, 2020 through February 28, 2021.
- Potential fraud claims from the OJI and uACTS systems for the period March 1, 2020 through February 28, 2021.
- Unemployment claim payments from the OJI system for the period March 1, 2020 through February 28, 2021.
- Unemployment claim payments from the uFACTS system for the period March1, 2020 through February 28, 2021.

The specific parameters and data fields required for these files was unique to this engagement, and had not been created or utilized by the Department prior to these requests. Due to the volume of data and the need to create customized queries in each system to build the datasets, these files were time consuming to create, obtain, and define. We defined these data files using the Audit Command Language (ACL) audit software tool. However, there is no independent data source available to confirm the completeness and accuracy of the claim payment data from the OJI and uFACTS system. This must be taken into consideration when considering results of testing performed using these data files.

We also obtained the following data files from other sources:

- A file of incarcerated individuals from the Ohio Department of Rehabilitation and Correction (DRC).
- A file of deceased individuals from the Ohio Department of Health (DOH).

QUERIES

We performed a series of 12 data analysis queries against the OJI and uFACTS payment data. These queris are intended to provide information regarding relationships between data elements contained in the OJI and uFACTS payment data files as well as external data from the DOH and DRC. The results of the queries represent areas of potential risk and should not be considered true exceptions or fraud without extensive further review.

Query 1	Same name and SSN used at more than one address.
OJI	There were no records where the name and SSN were associate with more than one address (Variability in the format and content of data entered by claimants related to address information potentially skewed the results of this query and made it impossible to obtain reliable results). A recommendation will be made related to the format and content of personal information entered into the systems (*see Recommendation 9*).
uFACTS	There were no records where the name and SSN were associate with more than one address (Variability in the format and content of data entered by claimants related to address information potentially skewed the results of this query and made it impossible to obtain reliable results).

Query 2	SSN associated with more than one address.
OJI	There were no records where the SSN was associated with more than one address (Variability in the format and content of data entered by claimants related to address information potentially skewed the results of this query and made it impossible to obtain reliable results).
uFACTS	There were no records where the SSN was associated with more than one address (Variability in the format and content of data entered by claimants related to address information potentially skewed the results of this query and made it impossible to obtain reliable results).

Query 3	Same address associated with more than one name.
OJI	66,738 total records where an address had more than one name associated with it. Of these, 147 had five or more people associated, with 13 addresses having 10 or more people associated, and one address having 1,404 names associated.
uFACTS	7,585 total records where an address had more than two names associated with it. Of these, 749 had five or more people associated, with 116 addresses having 10 or more people associated, and one address having 83 names associated.

Query 4	Same address associated with more than one SSN.
OJI	66,911 total records where an address had more than one SSN associated with it. Of these, 148 had five or more SSN associated, with 14 addresses having 10 or more SSN associated, and one address having 1,405 SSN associated.
uFACTS	7,700 total records where an address had more than one SSN associated with it. Of these, 778 had five or more SSN associated, with 87 addresses having 10 or more SSN associated, and one address having 83 SSN associated.

Query 5	Bank account associated with more than one SSN.
OJI	19,057 instances of unique bank account and routing number combo being used with more than one (two or more) SSN. Of these, 184 were used with five or more SSNs, including six combos with over 100 SSN.
uFACTS	141,771 instances of unique bank account and routing number combo being used with more than one (two or more) SSN. Of these, 17,899 were used with five or more SSN, including 4 combos with over 100 SSN.

Query 6	SSN associated with more than one bank account (A SSN might be associated with more than one bank account if the claimant changed banks)
OJI	154,496 SSN's associated with more than one bank account. Of that total 1,754 SSN were associated with four or more bank accounts, including nine associated with 10+ accounts.
uFACTS	210,568 SSN's associated with more than one bank account. 10,870 SSN's associated with five or more bank accounts, including 110 associated with 10+ accounts.

Query 7	Any claimant in the payment file also in the DOH death file.
OJI	129,758 instances where the date of death is before the week where benefits were requested.
uFACTS	11,859 records where the date of death is before the week where benefits were requested.

Query 8	Any claimant in the payment file also in the DRC incarceration file.
OJI	5,066 instances where the claimant received a warrant while incarcerated (DRC incarceration file may not always be properly updated for release date; this should be considered when evaluating these results).
uFACTS	80,878 instances where the claimant received a warrant while incarcerated (DRC incarceration file may not always be properly updated for release date; this should be considered when evaluating these results).

Query 9	High dollar transactions and more than 52 warrants.
OJI	129,827 SSN that received 53 or more payments. 5,519 individuals were paid more than $35,000. The highest amount was $119,000 (spot checks of the highest of these amounts appeared to be due to an anomaly in the data. The amount listed in the Payment Amount field for specific transactions did not match the payment amounts in the system. The Department could not determine how this occurred).
uFACTS	3,184 individuals were paid more than $35,000. Highest amount was approximately $47,000.

Query 10	Scanned for abnormal names in the data.
OJI	Instances of single letters, A (186 instances) used for first name or last name, other odd names such as DUMMYSTEVEN (four instances), DEMON (26 instances), and GUESS (41 instances).
uFACTS	Instances of single letters, A (170 instances) used for first name or last name, other odd names such as ADIDAS (54 instances), DUMMY contained in either first or last name (150 instances).

Query 11	SSN receiving payments from both OJI and uFACTS.
OJI	10,548 SSNs that appear to have received payments from both the OJI and uFACTS systems for the same week.
uFACTS	10,548 SSNs that appear to have received payments from both the OJI and uFACTS systems for the same week.

Query 12	Payment amount greater than Eligibility Amount (this query was run due to the results of query 9 to attempt to identify anomalies on the data).
OJI	29,788 instances where the Paid Amount was greater than the Eligible Amount.
uFACTS	614 instances where the Paid Amount was greater than the Eligible Amount.

The results of the queries have been shared with the Department for review and informational purposes (*see Recommendation 8*). We also discussed potential mitigations related to the types of scenarios identified by our queries with the Department. These mitigations include:

- Limitations on the number of times that an address can be used.
- Limitation on the number of times bank account/routing number combinations can be used, and Prohibited use of banking accounts and routing numbers known to be fraudulent.
- Experian and LexisNexis ID verification functionality.
- Cross-matches with DOH and DRC.
- Use of the Fraud Dashboard for review of flagged claims.

BANKING AND PERSONAL INFORMATION CHANGES

Background/Pre-Pandemic

In late June – early July 2020, the number of unemployment claims began to rise exponentially. With that rise in volume there was also a rise in unemployment fraud as fraudsters began to seize on opportunities. Imposter fraud and the re-routing of payments appear to be two of the major types of fraud being perpetrated.

The Ohio Auditor of State's (AOS) team had several meetings with ODJFS and the uFACTS vendor to discuss this type of fraud and more specifically the process by which claimants register in both the OJI and uFACTS systems as well as the process by which banking and personal information can be updated in these UI systems. We requested information and documentation related to the registration and banking/personal information change process and performed the following evaluations:

- Document the account registration and personal/bank information change process.
- Identify and test any fraud prevention/detection protocols/controls implemented.
- Obtain data files of all changes to personal/banking information and analyze for anomalies.

From inception of the OJI and uFACTS systems, the Department had some processes in place to verify the identity of claimants prior to processing claims.

OJI

The Department relied on a cross-match with the Social Security Administration (SSA) for ID verification of claimant who were US citizens. Claimant name, SSN, and Date of Birth (DOB) were matched against SSA data. If there were exceptions during this cross-match an eligibility issue flag would be placed on the account and Department staff would initiate fact finding requests from the claimant for ID verification documentation such as SSN card, birth certificate, etc. and perform the adjudication accordingly once items were received. If the claimant was not a US citizen, the system would automatically flag an eligibility issue and department staff would login to the Department of Homeland Security website to attempt to verify identity. These cross-matches remain in place for OJI currently.

uFACTS

Experian ID verification was in place for uFACTS. However, this particular version of Experian did not use One Time Passcode (OTP) dual factor authentication and was only in place during the initial claim filing process.

The claimant could choose to participate or not participate in the Experian ID verification process. If they chose to participate and information entered by the claimant surpassed the risk threshold set in Experian, knowledge based questions would be used to attempt to verify identity. If the claimant failed to answer the knowledge based questions correctly, an eligibility issue flag would be placed on the account and department staff would initiate fact finding requests from the claimant for ID verification documentation such as for SSN card, birth certificate, etc.. Staff would then perform the adjudication accordingly once items were received.

If the claimant chose not to participate in the Experian ID verification process, an eligibility issue flag would automatically be placed on the account and a fact finding and adjudication process similar to the one described above would occur.

ID Verification Improvements

To help combat the various fraud schemes, ODJFS, in consultation with the service organization and the Public-Private Partnership (P3) consultants, a project team of subject matter experts from 12 private sector companies with expertise in fraud, call center operations, and claims processing, brought into the process by the Governor to advise and collaborate with the Department regarding the Unemployment Insurance program, took steps to strengthen the ID verification process in account registration process for both the OJI and uFACTS systems, as described below.

OJI Account Registration - Experian

Experian ID Verification was implemented to strengthen the integrity of the OJI registration and personal information change process. Experian was implemented in three phases, as follows:

Experian Phase 1 (3/31/21)

This phase covered only new claimant registrations. The Experian Identity Verification process uses the information provided by the claimant during the registration process (SSN, name, address, DOB, identification information, etc.) to attempt to verify the identity of the claimant using information from the credit bureaus. A risk score is assigned based on the results of the verification. OJI also sets up knowledge based questions that will be used to validate the claimant during their first login attempt and password setup.

Experian can flag eligibility if the claimant's identity cannot be verified or if their risk score dictates. Flagged claimants does not prevent the claimant account from being set up, but would require review by ODJFS before a claim could be processed.

After the application process is complete, email correspondence is then sent to the claimant containing their user ID and a temporary password. During the claimant's first login attempt, a form of two-factor authentication was added requiring the claimant to provide a pin or answer the OJI pin hint question(s) in order to authenticate themselves and update their password to one of their choosing. Experian Phase 1 did not incorporate two factor authentication for subsequent logins.

Experian Phase 2 (5/13/21)

Phase 2 leveraged the same ID verification functionality, two factor authentication, to returning UI claimants already established in the system who were attempting to log back into the system to enter a new claim.

Experian Phase 3 (6/22/21)

Prior to the April/May 2020 timeframe, self-service changes to banking information in OJI were only permitted once per year by the claimant during the new claim application process. The claimant would have to contact ODJFS to make changes to their bank account info any other time of the year. With the increase in claim activity due to the pandemic ODJFS staff could not keep up with the banking change requests. A program change was initiated to allow claimants to change/update banking info at any time without limits. As a result, Experian Identity Verification Phase 3 was implemented on June 22, 2021.

This most recent phase included the following functionality:

1. Staff can now view Experian Verification Status on the Personal Information screen. Staff may also update the Verification Status manually to Verified or Failed and add comments. In addition, staff can set the Verification Status from Refer to document verification or Failed Verification to Select One to allow the Claimant to go through Experian verification again.

2. Staff cannot resolve an Open BPC Specific Issue - SSN Verification Needed issue unless the Claimant has been through the Experian verification process or staff have updated the Verification Status manually to Verified or Failed.

3. The Claimant cannot make updates on the Personal Information or Payment Preference Details screens in Claimant View if an Open BPC Specific Issue - SSN Verification Needed issue exists or if their Experian Verification Status is Refer to document verification or Failed Verification.

4. If a Claimant wishes to update information on the Personal Information screen they must pass Experian verification for changes to be updated. If verification is not successful the changes are not updated, and the Personal Information screen is locked down.

5. If a Claimant wishes to update banking information on the Payment Preference Details screen they must pass Experian verification prior to making changes, even if previously verified. If subsequent verification is not successful the Payment Preference Details screen will continue to be locked down. While locked down only the last four digits of the bank account number are visible.

<u>uFACTS Account Registration - LexisNexis</u>

LexisNexis ID Verification was implemented to strengthen the integrity of the uFACTS registration and personal information change process. LexisNexis also uses credit reporting info for ID verification. Once the claimant has passed ID verification LexisNexis utilizes two factor authentication (one time passwords, or personalized knowledge based questions) during logins and when attempting to change

personal/banking information. Any device that is used by a claimant must pass through the LexisNexis query process to become a trusted device; a series of questions must be answered before access can be granted using the device.

LexisNexis also followed a phased adoption:

- Phase 1 - Covered new claimant registrations – Deployed April 1, 2021
- Phase 2 - Covered returning or existing claimants – Deployed May 7, 2021

We performed a walkthrough and obtained documentation of both the Experian and LexisNexis processes. Documentation related to the implementation of Experian and LexisNexis were also reviewed to ensure a formal change management process was followed to implement this functionality. No exceptions were noted during the walkthrough or review of documentation or the change process.

REVIEW OF SPECIFIC FRAUD CASES

As a result of the increased fraud, specific instances of potential UI fraud related to imposter fraud were communicated to the AOS. One such issue related to an AOS employee who fell victim to this line of fraudulent activity. This individual received 28 separate pieces of UI mail at their home, all addressed to different individuals, during the period February 26, 2021 through April 4, 2021. Each of these envelopes contained a US Bank ReliaCard Unemployment debit card matching the name of the individual on each envelope.

We discussed this specific fraud scenario with ODJFS and requested information and documentation related to any account in the OJI or uFACTS systems utilizing the employee's address and evaluated the documentation to determine:

- The prevalence and timing of the potential fraud.
- The possible scenario(s) under which the fraud was perpetrated.
- Any benefits that were paid out as a result of the potential fraud.
- The timing and extent of any actions taken by ODJFS to identify and react to the attempted fraud.
- Any safeguards enacted to prevent or detect this type of fraud occurring in the future.

Results of Testing and Review

We obtained a listing of all unemployment cases relating to the AOS employee's address from ODJFS management. The listing provided by ODJFS contained all 28 names identified by the AOS employee, as well as 12 additional cases, for a total of 40 cases. Our review of the registration details related to these cases in the OJI and uFACTS systems indicated the following:

- 39 of the 40 (97.5%) cases were registered in the uFACTS system, and one of the 40 (2.5%) cases was registered in the OJI system.
- 34 of the 40 (85%) cases were registered between 2/12/21 and 2/16/21, six of the 40 (15%) cases were registered between 2/21/21 and 3/1/21.
- 36 of the 40 (90%) cases were registered with an alternate address and were subsequently updated to the AOS employee's address the same day of registration.
- Four of the 40 (10%) cases were originally registered with the AOS employee's address.

Our review of the adjudication and payment details related to these cases in the OJI and uFACTS systems indicated the following:

- One of the 40 (2.5%) cases had benefit payments issued totaling $5,586 ($2,394 via paper check and $3,192 via debit card).
  - The claimant had selected direct deposit as their preferred payment method. However, the initial payments were sent via paper checks totaling $2,394 on 3/3/21 due to the debit card enrollment not being completed at the time of the initial claim submissions. These checks were returned due to a bad address and subsequently cancelled and not requested for reissue. Subsequent direct deposit payments were attempted on 3/8/21 but rejected by the bank. Due to the rejection of the direct deposit, the payment method was automatically updated to debit card and payments totaling $3,192 were disbursed via debit card.

    ODJFS confirmed these debit card funds were used. An issue was posted to this account on 3/28/21 because the claimant failed to schedule a reemployment assessment. As a result, future payments to this claimant were disallowed/halted at that time.

- 39 of the 40 (97.5%) cases had a hold placed on payments.
  - The majority of these cases were marked ineligible via mass adjudication on 6/28/21 (approximately four months after original registration) due to the system flagging them for either fraud or failing to submit reporting requirements. No payments were made related to any of these cases.

Discussions with ODJFS management and members of the ODJFS Unemployment Insurance Public-Private Partnership (P3) indicate fraudsters are using addresses of vacant homes or homes known to be on the real estate market to attempt to defraud the unemployment system. ODJFS indicated they have seen a high incidence of this type of fraud scheme. The use of one address across multiple cases, as well as the grouped timing of the filings/address changes, appears to be the result of a single fraudster attempting to use this address to potentially file fraudulent claims. The AOS employee's address used in these cases was, at one time, listed for sale and searchable online.

As of September 7, 2021, ODJFS had not taken steps to investigate the specific details related to the origination and source of the 40 cases reviewed above due to the workload still associated with processing unemployment and pandemic unemployment assistance. A recommendation will be made related to investigation and review of potential and known fraud cases (*see Recommendation 8*).

All these cases occurred prior to the implementation of the Experian and LexisNexis identification verification in late March and early April 2021 respectively.

Additionally, ODJFS is working to ensure fraud prevention and detection processes are built into the new system slated to replace OJI through the development of the Unemployment Insurance System Transformation (UIST) Project.

EVALUATION OF CONTROLS

The following table summarizes the Department's internal control procedures Pre and Post Pandemic for Unemployment Insurance. As noted below, some controls were added as a result of the pandemic, while others which were in place prior to the pandemic were stopped or suspended.

Unemployment Fraud Prevention and Detection Processes	UI System	Pre-Pandemic	Post-Pandemic
Claimant and Employer documentation is obtained, approval of application	OJI	X	X
Determination of UI Benefits Letter sent to claimant	OJI	X	X
Customer Service Representatives verifies the claimant submitted the required Weekly Claims form	OJI	X	X
Maximum amount of benefits allowed is reported yearly by the Department and submitted to the UC Tech to have the new rates input into OJI for processing.	OJI	X	X
Maximum amount of benefits and maximum number of weeks is not exceeded.	OJI	X	X
Claims entered into OJI must have a social security number that is not already in the system with an active status claim.	OJI	X	X
Claims processed through OJI online are automatically processed nightly by the IBM Control M Mainframe Job Scheduler.	OJI	X	X
Only authorized personnel have access to the security roles that allow update access to the annually established maximum unemployment compensation rates.	OJI	X	X
BPC supervisors utilize FileNet to assign claims flagged for potential fraud	OJI	N/A	X
Fact-finding sent to determine if claimant is eligible to receive benefits	OJI	X	X
Notice of Determination of Eligibility for Unemployment Benefits sent to claim after issue had been worked	OJI	X	X
Weekly Report to monitor issues worked and issue backlog	OJI	X	Not used; replaced by dashboard

Unemployment Fraud Prevention and Detection Processes	UI System	Pre-Pandemic	Post-Pandemic
Fraud Dashboard is reviewed and utilized to investigate potential overpayments, including potential fraud	OJI & uFACTS	N/A	X
BAM operations were suspended by the DOL at the beginning of March 2020 due to the pandemic.	OJI	X	Suspended; Resumed on July 1, 2020 for paid claims and July 1, 2021 for denied claims per ODJFS
Cross-matches were run against unemployment data	OJI	Partially	X
	uFACTS	N/A	X
Claims entered into uFACTS must have a social security number that is not already in the system with an active status claim.	uFACTS	N/A	X
The uFACTS system has controls in place to ensure the maximum amount of benefits and maximum number of weeks is not exceeded.	uFACTS	N/A	X
The uFACTS system has issue alerts in place and functions to automatically adjust future claims on cases with overpayments.	uFACTS	N/A	X
Fact-finding documents (if applicable) sent to the claimant and/or employer to obtain additional documentation to verify the claimant is eligible	uFACTS	N/A	X
Adjudicator sends a Determination of Notice to the claimant once the fact-finding documentation is reviewed to verify eligibility and calculation of benefits.	uFACTS	N/A	X
Adjudication Supervisors monitor the Monthly Performance Spreadsheet to ensure issues are worked timely	uFACTS	N/A	X
SOC-1 report or equivalent was not completed over the uFACTS system	uFACTS	N/A	*was not completed in FY 2020; alternate procedures anticipated in FY 2021 and will be tested in 2021 Single Audit*

OJI CONTROL RESULTS

Regular unemployment and portions of the pandemic funding (i.e., FPUC, PEUC, State Extended Benefits, and LWA) benefits are processed through the Department's OJI benefit system, see page 9 for additional information. We documented and evaluated the internal controls over the unemployment benefit claims processing and fraud detection and prevention for OJI. Due to the timing of when testing could be completed, we performed the observation testing outside of the audit period, unless otherwise stated. The results of this testing are detailed below:

Unemployment Benefits Application:

OJI Control:
Upon receipt, the Customer Service Representative reconciles the claimant and employer information received to ensure accuracy and completeness of the application, as evidenced by the Request to Employer for Separation Information Form in correspondence in the OJI system.

Results:
Fourteen of 45 (31.1%) claims tested, the Department did not send the employer a Request to Employer for Separation Information Form. There was no evidence of the form being sent in OJI. Upon further investigation, the Department utilized a mass layoff number in an effort to process a large volume of applications in a timely manner. The use of this number ended May 28, 2020. The Department relied upon the claimant's attestation in the application and failed to send the employer(s) the Request for Employer Separation Information letters *(see Recommendation 1).*

Determination of Unemployment Compensation Benefits Letter:

OJI Control:
Once the application has been approved, the applicant is notified of the weekly benefit amount and subsequent requirements (i.e. continued search for employment, weekly claim submissions, etc.), as evidenced by the Determination of Unemployment Compensation Benefits Letter in correspondence in the OJI system.

Results:
45 claims were selected for testing to determine if the Determination of Unemployment Compensation Benefits Letter was issued. No exceptions were noted.

Weekly Claims Form:

OJI Control:
Biweekly, the Customer Service Representative verifies the claimant submitted the required qualifying information for both benefit weeks to ensure the claimant is eligible for benefits, as evidenced by the Weekly Claim Form in OJI.

Results:
45 claims were selected for testing to determine if the Weekly Claims Form had been submitted by the claimant. No exceptions were noted.

Monitoring of Issues:

OJI Control:
Daily, the Benefit Payment Control supervisors utilizes File Net to assign claims flagged for potential fraud by an adjudicator and to monitor the status of the claims, as evidenced by the BPC Document Status within File Net.

Results:
We completed an observation of Benefit Payment Control's File Net system and no exceptions were noted.

Fraud Dashboard:

OJI Control:
Daily, the Benefit Payment Control section staff and supervisors review and investigate potential overpayments, including potential fraud, within OJI by reviewing the data within the Fraud Dashboard and fact-finding documentation as evidenced by the Benefit Payment Control section staff's update to the claim within OJI once a determination is made.

Results:
We completed an observation over the Fraud Dashboard and no exceptions were noted.

Adjudicated or Potential Unemployment Fraudulent Benefit Claims:

OJI Control:
The Benefit Payment Control Adjudicator attempts to obtain information from the claimant to ensure the claimant is eligible and receiving the correct benefit amount as evidenced by the fact-finding correspondence sent to the claimant.

Results (Adjudicated Claims):
One of 45 (2.2%) adjudicated fraudulent claims tested, the Department had not issued the fact-finding questionnaire to the claimant. *(see Recommendation 2)*

Results (Potential Claims):
Seven of 45 (15.6%) potential fraudulent claims tested, the Department had not issued the fact-finding questionnaire to the claimant. *(see Recommendation 2)*

Adjudicated Unemployment Fraudulent Benefit Claims:

OJI Control:
The Benefit Payment Control Adjudicator adjudicates the issues within OJI and notifies the claimant of the determination, as evidenced by the completion of the Notice of Determination of Eligibility for Unemployment Benefits in OJI.

Results (Adjudicated Claims):
One of 45 (2.2%) adjudicated fraudulent claims tested, the Department failed to complete and issue the Notice of Determination of Eligibility for Unemployment Benefits in OJI. *(see Recommendation 2)*

uFACTS CONTROL RESULTS

Pandemic unemployment (i.e., PUA, FPUC, LWA) benefits are processed through the Department's uFACTS benefit system, see page 9 for additional information. We documented and evaluated the internal controls over the unemployment benefit claims processing and fraud detection and prevention for uFACTS. Due to the timing of when testing could be completed, we performed the observation testing outside of the audit period, unless otherwise stated. The results of this testing are detailed below:

Adjudicated Unemployment Fraudulent Benefit Claims:

uFACTS Control:
As fraud flags are set, the initial application and/or continued claim form, applicable documentation, and completed fact-finding documents (if applicable) are reviewed by the Adjudicator ensuring the claimant is eligible and the benefit is calculated correctly as evidenced by the fact-finding and benefit determination correspondence sent to the claimant.

Results:
45 adjudicated fraudulent issues were selected for testing and no exceptions were noted.

Potential Unemployment Fraudulent Benefit Claims:

uFACTS Control:
As potentially fraudulent issues are set, the Adjudicator attempts to gain information from the claimant to ensure the claimant is eligible and the benefit is calculated correctly as evidenced by the fact-finding correspondence sent to the claimant.

Results:
45 potential fraudulent issues were selected for testing and no exceptions were noted.

Adjudication Queue:
uFACTS Control: Monthly, Adjudication Supervisors monitor and ensure issues are completed accurately, as evidenced by the Monthly Performance Spreadsheet completed for each adjudicator. **Results:** We completed an observation of the Monthly Performance Spreadsheet and no exceptions were noted.
Fraud Dashboard:
uFACTS Control: Daily, the Benefit Payment Control section staff and supervisors review and investigate potential overpayments, including potential fraud, within uFACTS by reviewing the data within the Fraud Dashboard and fact-finding documentation as evidenced by the Benefit Payment Control section staff's update to the claim within uFACTS once a determination is made. **Results:** We completed an observation over the Fraud Dashboard and no exceptions were noted.

TESTING OF CASES

AOS utilized the OJI and uFACTS claims paid data files prepared by the Department to determine populations for the unemployment benefit claims, adjudicated fraudulent claims and potential fraudulent claims substantive testing of transactions which occurred during the period. The results below represent the status of the claim/activities as of the date of our testing.

OJI Unemployment Benefits Claims:
The Department processed approximately 25.5 million benefit claims in traditional unemployment insurance, totaling $9.76 billion during the period of March 1, 2020 through February 28, 2021. These unemployment benefits were paid by electronic ACH (21.3 million payments), debit cards (4 million payments), and paper warrants (156,000 payments). We selected 45 claims for testing to determine if the claimant was eligible to receive unemployment benefits, if the benefit payments were allowable/in accordance with federal laws and regulations, and if the payment was made timely (14 days from the date filed, per auditor's judgment). We noted the following exceptions: • Eight of 45 (17.8%) unemployment claims, the benefit payment was not made timely. Days late ranged from 3 to 227, for an average of 61 days *(see Recommendation 1).*
OJI Unemployment Adjudicated Fraudulent Claims:
The Department processed 12,543 adjudicated fraudulent claims for OJI during the period of March 1, 2020 through February 28, 2021. There were 14 issue types and we stratified the items selected for testing by selecting 45 issues from the six highest issue types (e.g., earnings, valid claims – EB, and no longer employed issue types represented 88.54% of the population). We performed the procedures below to identify and evaluate the Department's timeframe for detecting/flagging issues, sending the fact-finding questionnaire, and working the issues within 21-days. We noted the following: • 32 of 45 (71.1%) adjudicated fraud issues were not detected/flagged within 30 days (auditor's judgement) from the benefit week ending date. Days between the benefit week ending date and the date of issue ranged from 1 to 309, for an average of 120 days.

OJI Unemployment Adjudicated Fraudulent Claims (continued):

- 14 of 45 (31.1%) adjudicated fraud issues, the fact-finding was not sent within seven days (auditor's judgement) of the issue determination date. Days between the issue determination date and fact-finding ranged from 4 to 305, for an average of 128 days.
- 10 of 45 (22.2%) adjudicated fraud issues, the fact-finding date preceded the issue detection date, as a result of the Department not sending the fact-finding and relying upon documentation received for a previously resolved issue.
- 1 of 45 (2.2%) adjudicated fraud issues, there was no evidence in OJI that the fact finding was sent to the claimant.
- 31 of 44 (77.5%) adjudicated fraud issues, the Determination Notice was not issued within 21 days (Dept. policy based on DOL guidance). Days between the issue determination date and the Determination Notice ranged from 4 to 320 days, for an average of 112 days.

(see Recommendation 2)

OJI Unemployment Potential Fraudulent Claims:

The Department flagged 273,219 potential fraudulent claims within OJI during the period of March 1, 2020 through February 28, 2021. Of the 57 issue types, we stratified the items selected for testing and selected 45 issues from the 17 highest issue types (e.g., no longer employed, BPC specific issue, valid claim – EB, and earnings issue types represented 61.96% of the population). We performed the procedures below to identify and evaluate the Department's timeframe for detecting/flagging issues, sending the fact-finding questionnaire, and if applicable, working the issue within 21-days. From the time the potential fraudulent claims data file was created by the Department, the BPC Adjudicators may have worked, closed the issue. We noted the following:

- 17 of 45 (37.8%) potential fraudulent claims were not identified/flagged within 30 days (auditor's judgement) of the benefits week ending date of the initial fraudulent payment. Days between the benefits week ending date and the issue determination date ranged from 2 to 303, for an average of 86 days.
- 6 of 45 (13.3%) potential fraudulent claims, the fact-finding was not sent within seven days (auditor's judgement) of the issue determination date. Days between the issue determination date and the fact-finding ranged from 2 to 20, for an average of 9 days.
- 7 of 45 (15.6%) potential fraudulent claims, there was no evidence in OJI that the fact-finding was sent to the claimant.
- 1 of 45 (2.2%) potential fraudulent claims, the fact-finding date preceded the issue determination date, as a result of the Department not sending the fact-finding and relying upon documentation received for a previously resolved issue.
- 15 of 30 (50%) potential fraudulent claims did not have a Determination Notice sent within 21-days (Dept. policy based on DOL guidance) of the issue determination date. Days between the issue determination date and the Determination Notice letter ranged from 4 to 276, for an average of 76 days.

(see Recommendation 2)

uFACTS Unemployment Benefits Claims:

The Department processed approximately 17.9 million benefit payments for pandemic unemployment through uFACTS, totaling $8.07 billion during the period of March 1, 2020 through February 28, 2021. The unemployment benefits were paid by an electronic ACH payment (13.3 million) and debit cards (4.6 million). We selected 45 claims for testing to determine if the claimant was eligible to receive unemployment benefits and if the benefit payments were allowable and in accordance with federal laws and regulations. We noted the following exceptions:

- One of 45 (2.2%) claimant payment's dependency class designation did not agree with the information provided on the application and the benefit amount was not accurately calculated. The WBA was incorrectly calculated as $480 when the claimant was only eligible for a WBA of $189, and the claimant was overpaid $1,164 in benefits.

- 16 of 45 (35.6%) claimant payments did not have the required documentation (i.e. COVID-19 attestation questionnaire, wage information, identity verification) within uFACTS to support that they were eligible, the benefit payment was properly calculated or that the payment was proper.

(see Recommendation 1)

uFACTS Unemployment Adjudicated Fraudulent Claims:

The Department processed approximately 186,156 in unemployment adjudicated fraudulent claims for uFACTS during the period of March 1, 2020 through February 28, 2021. Of the 12 issue types, we stratified the items selected for testing and selected 45 issues from nine of the highest issue types (e.g., social security verification issue type represented 99.7% of the population). We performed the procedures below to identify and evaluate the Department's timeframe for detecting/flagging issues, sending the fact-finding questionnaire, and working the issues within 21-days. We noted the following:

- 36 of 45 (80%) adjudicated fraud issues were not detected within 30 days (auditor's judgement) from the initial application date. Days between the initial application and the detection date of the issue ranged from 32 to 309 days, for an average of 128 days.

- 33 of 45 (73.3%) adjudicated fraud issues, the fact-finding was not sent within seven days (auditor's judgement) of the issue detection date. Days between the issue detection date and the fact-finding ranged from -194 to -28 days, for an average of -118 days. Upon further investigation, the fact-finding date preceded the issue detection date because the Department relied upon the fact-finding information obtained for another issue.

- 12 of 45 (26.7%) adjudicate fraud issues, the issuance of the Determination Notice was not issued within 21-days (Dept. policy based on DOL guidance. Days between the issue detection date and the Determination Notice ranged from 53 to 276 days, for an average of 166 days.

(see Recommendation 2)

uFACTS Unemployment Potential Fraudulent Claims:

The Department flagged approximately 2.5 million in unemployment potential fraudulent claims for uFACTS during the period of March 1, 2020 through February 28, 2021. Of the two issue types, Knowing Failure and SSN Verification for Identity, we selected 45 items from the SSN Verification for Identity since these claims had a potential to be an overpayment. We performed the procedures below to identify and evaluate the Department's timeframe for detecting/flagging issues, sending the fact-finding questionnaire, and if applicable, working the issue within 21-days. From the time the potential fraudulent claims data file was created by the Department, the BPC Adjudicators may have worked, closed the issue.

uFACTS Unemployment Potential Fraudulent Claims (continued):

We noted the following:

- 27 of 45 (60%) potential fraudulent claims were not identified/flagged within 30 days (auditor's judgement) of the initial application date. Days between the initial application and the date of the potential issue ranged from 48 to 246 days, for an average of 119 days.
- 1 of 45 (2.2%) potential fraudulent claims, the issue detection date preceded the claimant's application date.
- 6 of 45 (13.1%) potential fraudulent claims did not have their fact-finding sent within seven days (auditor's judgement) of the issue detection date. Days between the potential issue detection date and the fact-finding ranged from 7 to 180 days, for an average of 46 days.
- 14 of 45 (31.1%) potential fraudulent claims, the fact-finding date preceded the issue detection date, as a result, of the Department not sending the fact-finding and relying upon documentation received for a previous issue.
- 25 of 45 (55.6%) potentially fraudulent payments did not have a determination of benefits/notification of benefits sent within 21-days (Dept. policy based on DOL guidance) of the issue detection date. Days between the initial application and the date of the determination of benefits/notification of benefits letter ranged from 6 to 335 days, for an average of 159 days.

(see Recommendation 2)

OTHER MATTERS

FRAUD INQUIRES

During the course of the financial audit, several required steps are completed regarding fraud risks. The following individuals were asked whether they were aware of any fraud or had any fraud concerns related to the state fiscal year 2020 audit and all noted no concerns: now former Chief Legal Counsel on July 29, 2020, Chief Operating Officer on August 10, 2020, and Bureau Chief-Audit, Control, and Claim Support on August 11, 2020. Additionally, as part of the wrap-up of the audit, the Chief Financial Officer and now former Director signed a representation letter dated February 22, 2021, which noted they were unaware of any fraud or suspected fraud. Finally, an addendum to the representation letter was signed by the Interim Director on March 16, 2021 indicating potential fraud was identified that could materially impact the state financial statements in fiscal year 2021.

Fraud was discussed with officials several times during the financial audit, yet on May 27, 2020 and again on February 10, 2021, the now former Director testified in front of both the Ohio House of Representatives' Ways and Means Committee and Finance Committee, respectively, that she was aware of the unemployment fraud committed at the recipient level due to the spike in claims filed during the COVID-19 pandemic. This is contradictory to what was stated above as part of the financial audit. However, interviews conducted in September 2021 with the now former Chief Legal Counsel, Chief Operating Officer, Bureau Chief-Audit, Control, and Claim Support, and Chief Financial Officer indicated that the questionnaires and representation letter were addressed with the interpretation of only identifying internal/employee-related fraud within ODJFS at the county and state levels, not fraud committed by recipients *(see Recommendation 5)*.

INDIVIDUALS IMPACTED BY UNEMPLOYMENT FRAUD

The AOS received numerous complaints from individuals, employers, and elected officials regarding individuals who were impacted by the unemployment fraud during the COVID-19 pandemic, including one individual whose claim was outside our audit period. We inquired with the Department to determine how the fraud occurred, if payments were issued to these individuals, if the Department was aware of the fraud complaint through an internal process (system flag/what was the fraud issue) or did the individual or employer self-report the fraud to the Department.

The complaints to the AOS included 53 individuals related to 112 claims or unique social security numbers who attempted to file an unemployment benefit claim. We noted the following based on our inquiry with the Department:

Unemployment Systems:

- 106 of 112 claims were processed through OJI;
- 4 of 112 claims were processed through uFACTS; and,
- 2 of 112 claims were not located in either system.

Unemployment Benefit Payments:

- 13 individuals reported that their unemployment benefits were disrupted as a result of changes to their banking information. For instance the unemployment benefits were routed to a different bank that was not associated with the individual or the payment method was changed from a direct deposit to a debit card.
    - For these 13 individuals, approximately 49 claims were associated with their names and 31 of these claims had payments issued through OJI, 14 claims in which the payment was not issued, 2 claims were currently pending payment at the time of our inquiry, and 2 individuals/claims could not be located in either system.
- 40 individuals reported that their identity had been compromised and someone had applied for and/or received unemployment benefits in their name.
    - For these 40 individuals, approximately 63 claims were associated with their names and 45 of these claims had payments issued through OJI, 11 claims in which the payment was not issued, and 7 claims were either incomplete or could not be located in either system.

Unemployment Fraud Flagged by the Department:

- 45 of 112 claims, the Department's unemployment system flagged the claim and created a fraud issue within system. A majority of these fraud issues were for SSN Verification – Identity Theft.
- 55 of 112 claims, the Department's unemployment system did not flag the claim or create a fraud issue within the system.
- 12 of 112 claims, a fraud issue was not created since the individual in question was not listed as a claimant in either unemployment system and/or the application was incomplete and the claimant was determined ineligible. .

The Department was unable to provide explanations on how the fraud may have occurred because it required knowing how the individual's identity was compromised.

(see Recommendation 8)

ONGOING CHANGES

UNEMPLOYMENT INSURANCE REPLACEMENT SYSTEM

ODJFS recognizes the strategic need to replace Ohio's OJI with a system more responsive to customer needs, expectations, and reduce maintenance and technology update costs. The Department is working with an outside vendor to create a customized system to replace OJI. This project, Unemployment Insurance System Transformation (UIST), will implement a modernized, cloud-hosted solution based on a web application subscription model.

The goal of the UIST project is to produce a cloud-based application that provides the functionality required to administer the State of Ohio's Unemployment Insurance program, including Tax, Benefits, and Appeals. ODJFS contracted with Sagitech to develop and customize Sagitec's Unemployment Insurance Product Solution, Neosurance™, to help meet the needs and requirements of ODJFS' Unemployment Insurance program. The UIST project is using an iterative software development methodology where tasks and milestones are broken down into iterations or feature sets. Quality aspects are threaded throughout project phases not only by the Project Management methodology itself but also by utilization of proven Software Engineering processes aligned to industry standards of various iterative Software Development Methodologies.

As of late August 2021, ODJFS was still in the process of developing the UIST system with their vendor Sagitec. Due to lessons learned over the last year related to the unemployment program and the increase in fraud related to the pandemic, ODJFS is evaluating the original UIST system design to identify any fraud prevention or detection functionality built into the system "out of the box". Once they identify and understand the "as-is" state of the system in regard to fraud detection and prevention they can then assess and begin to formulate recommendations and change requests to incorporate additional fraud prevention/detection functionality they deem necessary into the design prior to finalization of the project and implementation into production. This process of evaluating the current UIST design is being incorporated into iteration B08. Examples of the use cases and workflow specifications to be reviewed are detailed below.

Use Cases

Wage Detail Crossmatch	Identifies claimants who have a minimum number of compensable week(s) of UI benefit payments, with a minimum benefit amount paid, and minimum wages; for the entire duration of a given calendar quarter and were also listed as employee(s) on quarterly wage report filed by the employers for the same calendar quarter. This internal crossmatch will be used by staff to analyze and create non-monetary issues, if necessary.
Tips and Leads	Allows a provider to navigate to the 'Unemployment Insurance Landing Page' and select the 'Report Fraud' button, providing ODJFS with information relating to either claimant or employer fraud, creating a 'Review Claimant Fraud Reported' notification for ODJFS staff to review.
Program Integrity	Cross-matching the following in order to specifically assist in the identification of fraudulent account situations, collection of fraudulent overpayments, and internal fraud investigations: o Fictitious Employer Crossmatch. o Incarceration Crossmatch – detects individuals receiving UI while in jail or prison. o Railroad Retirement Board Crossmatch. o Bureau of Workers Compensation (BWC) Payment Crossmatch – detects potential overpayments for individuals receiving workers compensation.

	o OAKS Benefits Payment Crossmatch – detects overpayments for state agency employees.
Other State Crossmatch	Cross-matching other state's UI directories via the Interstate Connection Network (ICON) for claimant earnings in order to detect non-monetary issues relating to claimant earnings requirements.
New Hire Crossmatch	Cross-matching state and national new hire directories for claimant earnings in order to detect non-monetary issues relating to claimant earnings requirements.

Workflow Specifications

Review Additional Proof of Identity	Once claimants provide a response to a claim that is flagged as needing additional proof of identity, staff has the opportunity to approve or deny additional supporting documentation provided by the claimant when additional proof is needed, ensuring that the claimant provides sufficient information to verify their identity – if support is deemed insufficient the account will be flagged as fraudulent, locked, and payments will be held.
Review Claimant Reported Fraud	Allows staff the opportunity to review provider-submitted tips and leads relating to claimant fraud – if staff determines there is sufficient information to pursue the tip/lead staff will manually create the appropriate issue.
Review Employer Reported Fraud	Allows staff the opportunity to review provider-submitted tips and leads relating to employer fraud – if staff determines there is sufficient information to pursue the tip/lead staff will manually create an investigation case.
Review Potential Fictitious Employer	Allows staff the opportunity to review claimants flagged by the system as having a potential fictitious employer – if the staff determines the employer is fictitious claimants attached to the fictitious employer are marked as 'Under Potential Fraudulent Investigation'.
Review Potential Fraud Investigation	Once claimants provide a response to a claim that is flagged as potentially fraudulent, staff has the opportunity to review the additional supporting documentation provided by the claimant – if the supporting documentation is deemed insufficient, the claimant is flagged as 'Under Potential Fraudulent Investigation', the system will create an Action Item for the claimant to provide additional proof of identity.

In addition to the cross-matches and workflow specifications incorporated into Iteration B08, ODJFS also plans to evaluate Sagitech's Neofraud solution as part of Iteration B12.

Sagitec's Neofraud approach combines the best attributes of data analytics, continuous monitoring, and predictive analytics to help UI agencies reduce improper payments and detect fraud. Sagitec's Neofraud solution is a comprehensive, browser-based software solution designed to improve the agency's ability to detect fraud and identify overpayments. Neofraud is designed to detect and manage the propensity for fraud by evaluating employer and claimant attributes, which are fully configurable.

Neofraud functionality includes the following capabilities:

- **Improve Agency Performance:** An integrated fraud dashboard measures potential fraud in terms of benefit amount, overpayment amount, and fraudulent amount. The model also provides operational, demographic, and behavioral analytics.
- **Reduce Overpayments:** A comprehensive, predictive fraud model identifies fraud trends and anomalies before they occur and produces a cross-match of data sources to identify potential fraud cases.

- **Enhance Fiduciary Responsibility:** Neofraud improves benefit accuracy and fiduciary responsibility. Enhanced functionality allows the agency to proactively create cases for further investigation, collection, and/or prosecution.
- **Gain Flexibility:** Powerful neural modeling/machine learning enables the agency to configure the application to predict fraud without complex software programming.
- **Improve Fraud Detection Before It Occurs:** Predicts the propensity for fraud during the initial and continued claims process. Claimants and employers can be flagged for follow-up using several behavioral parameters. Fraud can be detected early on, before payments are made.
- **Utilize Advanced Technology to Detect Fraud:** Offers machine learning technology on a neural network. The neural network model is custom designed based on agency requirements. The model continually evolves and trains itself based on the actual data the model is evaluating. The model is adaptive and can be changed or trained/retrained based on changing behavior or fraud trends. The solution also allows the agency to build multiple models, based on requirements, and choose the one that is most effective.

Neofraud provides a full suite of tools and features to enhance fraud detection and management abilities, including:

- **Behavioral Analytics:** Analyze unemployment insurance fraud data in terms of payment week and repeat offenders. View results as pie and bar charts.
- **Identify Fictitious Employers:** Identifies fictitious employers through behavioral analysis and data anomalies. Identifies fictitious employers based on the model's behavioral and data parameters, and then flags them for follow-up. The results of the model can be integrated with field audit for employers requiring further review.
- **Demographic Analytics:** Provides analysis of unemployment insurance fraud data in terms of zip code, incidence size, industry code, occupation code, education, age, gender, and race. View results in the form of Google maps, pie, and bar charts.
- **Operational Analytics:** Analyze unemployment insurance fraud data in terms of program type and source.
- **Export to Excel:** The power of data analysis is present with ad hoc reporting capability. Retrieve custom data sets and export them to Microsoft Excel.
- **Intuitive Graphical User Interface (GUI):** Reduces the learning curve for new users with an intuitive design and rewards experienced staff with faster processing.
- **Integration with UI Tax and Benefits Systems:** Automatically create issues in your UI Tax and Benefits System to manage potential fraud cases.
- **Integrated Case Management and Workflow:** Manages potential fraud cases efficiently throughout the case lifecycle using Neofraud's case management module.
- **Non-Deterministic Modeling Approach.** Models are created without writing deterministic code (if-else logic). Models are created online by business users and the created models do not have predefined logic that determines the outcome. The models are created based on the learning and factors associated with the data input attributes, thereby resulting in unbiased results.

A recommendation will be made related to the development of the new UIST system and related fraud prevention/detection protocols *(see Recommendation 7)*.

RECOMMENDATIONS

Recommendation 1:

We recommend the Department continue to strengthen current internal control procedures over the unemployment benefit claims paid through OJI and uFACTS. The Department should ensure proper documentation is obtained from the claimant and/or employer prior to processing the benefit claims through implementation of consistent management monitoring of reports and process procedures. The Department should continue to develop policies and procedures to specifically address situations beyond the physical and environmental disasters identified in their disaster recovery plan, such as the COVID-19 pandemic, which could impair their ability to effectively operate. For instance, when processing claims associated with a mass layoff code, the Department should implement alternative procedures to confirm the claimant's employment status prior to paying the claim.

The Department should ensure claimants have submitted the required documentation with their application prior to processing a claim. In addition, the Department should continue to evaluate and seek reimbursement/repayment, or offset future benefits for all benefits that were paid to ineligible claimants (e.g., WBA incorrectly calculated).

Recommendation 2:

We recommend the Department re-evaluate the internal control procedures over the timing of the fact-finding questionnaires generated by the OJI and/or uFACTS systems once an issue has been created. If fact-finding is not automatically generated and sent to the claimant or employer, the Department should document a reason for the delay in the corresponding system.
We noted several instances in which the fact-finding questionnaire was sent prior to the issue detection date and we had to rely on the Department to identify the previously worked issue that corresponded to the current issue under review. We recommend the Department develop a procedure to document and/or link the fact-finding information in both systems when it's obtained for a previously created issue and relied upon for current issue.

As the Department continues to implement and evaluate the cross-matches for both systems, management should periodically review the cross-match documentation to ensure the matches are being performed timely and as intended. The Department should develop a report to monitor the aging of issues created by these cross-matches. This aging report could assign a priority designation or flag issues that have not been processed within 21-days. The Department could use this type of report to prioritize issues, monitor the issue backlog, ensure issues are being addressed timely, and the Notice of Determinations are completed and issued in a timely manner.

Recommendation 3:

We recommend the Department strengthen current internal control procedures over the UI program and the uFACTS system which should include, but not be limited to:

- Amending the contract with the service organization to require an annual SOC 1 audit or similar independently performed procedures to ensure the service organization has control procedures in place and operating effectively and that any Ohio-specific requirements are operating as intended.
- Requiring appropriate Department management perform a timely review of the SOC 1 report and other procedures to identify any weaknesses, issues, or required complimentary user entity controls (CUECs), and ensuring the Department implements sufficient controls to address these items.

Recommendation 3 (continued):

- Implementing appropriate control procedures to monitor service organization activities to ensure benefits are processed accurately and are paid to eligible claimants. This includes maintaining documentation in an orderly fashion to be provided to external parties for additional review.
- Implementing monitoring procedures to coordinate and track any system changes or issues submitted to the service organization. Specifically, the Department should perform procedures to identify and correct system errors to prevent duplicate benefit payments within the uFACTS and OJI systems.
- Requiring management continually monitor these procedures of both the service organization and Department to ensure the compliance requirements of the program management's objectives are being met. If not, management should implement additional procedures or revise the requirements of the service organization contract agreement or Department policies and procedures, as necessary. Management should periodically monitor and update internal procedures to ensure management's objectives are being met.

Recommendation 4:

We recommend the Department coordinate with the service organization to develop and implement internal control procedures to provide assurance the ETA 902P reports are accurate, complete, and in compliance with federal requirements. At a minimum, these procedures should include a management review of the report and verification of all of the amounts prior to submitting the report to the DOL.

Recommendation 5:

Auditing Standard AU-C Section 240.17 requires the auditor to make inquiries of management regarding management's assessment of the risk that the financial statements may be materially misstated due to fraud, including the nature, extent, and frequency of such assessments. Section 240.18 requires the auditor to make inquiries of management, and others within the entity as appropriate, to determine whether they have knowledge of any actual, suspected, or alleged fraud affecting the entity.

We recommend the Department identify internal and external fraud risks that could materially misstate the financial activity for the Department within the State of Ohio's financial statements. We also recommend that the Department report any known fraud, both internal and external, to the auditors as soon as the fraud is identified.

Recommendation 6:

We recommend the Department update the ODJFS Continuity of Operations Plan and the ODJFS Pandemic Plan to assess and define the actions and strategies necessary to maintain appropriate levels of human resources as well as data processing capabilities in the event of an emergency, such as the COVID-19 pandemic. Disruptions in processing capabilities or a surge in claim activity may place undue strain on the Departments human and/or technological resources and capabilities. The Continuity of Operations Plan and the Pandemic Plan must contain specific steps and strategies to be implemented in the event of these types of emergencies including, but not limited to:

- Additional data processing throughput.
- Additional personnel needs.
- Computer software and hardware needs
- A means to Identify and assess potential risks associated with the event or disaster.

Recommendation 7:

We recommend the Department continue their efforts to replace Ohio's OJI with a system more responsive to customer needs, expectations, and reduce maintenance and technology update costs. We further recommend the Department follow through with their efforts to evaluate the original UIST system design to identify and assess any fraud prevention or detection functionality built into the system. Once they identify and understand the fraud prevention and detection functionality designed into the UIST system, they should incorporate any additional fraud prevention/detection functionality deemed necessary into the design prior to finalization of the project and implementation into production. ID verification functionality similar to Experian and LexisNexis should be incorporated into any fraud detection/prevention toolset being considered.

Recommendation 8:

The sheer volume of fraud and overpayments encountered during the pandemic resulted in an overwhelming number of cases. This overload of cases created unforeseen challenges for the Department to investigate and determine the source of potential and adjudicated fraud. During DITA's data analysis of claims paid data from the OJI and uFACTS systems we noted several areas of potential risk related to relationships between data elements contained in the OJI and uFACTS payment data files as well as external data from the DOH and DRC. In addition, during DITA's review of specific fraud cases, we noted one case where potential imposter fraud occurred and fraudulent payments totaling $3,192 were made to an individual via debit card. We recommend the Department take steps to analyze the data analysis results to mitigate the potential risk associated. We also recommend the Department investigate the aforementioned case of potential imposter fraud, as well as any other known or potential fraud case where payments were made to identify the source of the fraud and recoup any funds that went out.

Recommendation 9:

Claimants register in the OJI and uFACTS system through a self-service portal and are required to enter personal and demographic information such as name and address. During our analysis of claims paid files from the OJI and uFACTS systems we noted a high degree of variability in the format of how address information can be entered in to the system (use of abbreviations, commas, etc.). We recommend the Department take steps to review edits programmed into the unemployment benefit systems related to entry of key personal and demographic information including but not limited to claimant name, address, and banking information to ensure information entered into these fields is consistently formatted.

Recommendation 10:

The Department should evaluate existing internal controls related to non-fraud overpayments, including employee training, to mitigate the risk of errors and/or non-fraud overpayments (i.e., unintentional state agency, employer, and claimant errors). The Department should also utilize the fraud dashboard and other available resources to identify potential issues that could result in non-fraud overpayments and take the necessary steps to evaluate them prior to payment in order to reduce the amount of non-fraud overpayments that require collection. These controls and procedures should be formally documented and communicated to all employees involved in processing, approving, and adjudicating Unemployment claims.

OHIO AUDITOR OF STATE
KEITH FABER

OHIO DEPARTMENT OF JOB AND FAMILY SERVICES
AUDITOR'S REPORT ON UNEMPLOYMENT INSURANCE FRAUD

FRANKLIN COUNTY

AUDITOR OF STATE OF OHIO CERTIFICATION

This is a true and correct copy of the report, which is required to be filed pursuant to Section 117.26, Revised Code, and which is filed in the Office of the Ohio Auditor of State in Columbus, Ohio.

Certified for Release 10/28/2021

88 East Broad Street, Columbus, Ohio 43215
Phone: 614-466-4514 or 800-282-0370

This report is a matter of public record and is available online at
www.ohioauditor.gov

Mr. CAREY. So, I am going to go into—I am going to kind of go through my question, lay it out.

Last February the Administration took unilateral action to sweep suspected fraud under the rug, releasing guidance to allow states to waive large numbers of suspicious claims and forgo recovery and restitution for the taxpayers. Then, in March, DoL reported that the states identified $35.1 billion in overpayments made in the UI programs during the first seven quarters of the pandemic.

So after first allowing the states to waive the overpayments, and only subsequently identifying the extent of the overpayments, DoL relented last July and sent $250 million to the states for reporting and detection and recovery of the overpayments. While DoL is not here to address these contrary actions, perhaps DoL OIG can shed some light on this.

So, with that, Mr. Turner, I do believe you were in the military for a number of years.

Mr. TURNER. Yes, I was.

Mr. CAREY. I want to thank you for your service. So, Mr. Turner, even if DoL told states they could not waive fraudulent payments, how are we to know what—some claims involved in those waivers were not fraud, if the states don't have to look into them at all?

Mr. TURNER. Well, you have kind of taken the OIG position, because you—we actually believe that you do have to do that. And part of our work this year and this spring is going to take a look at that.

Mr. CAREY. Wonderful. And to that, are you investigating the impact of this guidance on your ability to recover fraudulent payments?

Mr. TURNER. Yes, we are.

Mr. CAREY. Okay. Mr. Chairman, I yield back.

Chairman SMITH. Thank you, gentleman. And last, but certainly not least, the gentleman from California, Mr. Panetta.

Mr. PANETTA. Thank you, Mr. Chairman.

Gentlemen, I will try to be quick.

Obviously, starting with the CARES Act, Congress acted with speed and bipartisanship to help people who lost their livelihoods, who lost money, who lost their jobs. We provided billions for unemployment insurance that worked, that helped people, that actually prevented hardship for millions, including in my district, the 19th congressional in California.

Now, unfortunately, as we have heard over and over, and as we know well, there was fraud. And as a former prosecutor, I am well aware of people who try to pull one over on the Federal Government and on the government. And yes, we should hold them accountable to the fullest extent of the law, as we have been hearing throughout today's hearing.

But now, as a Federal representative, I get to look forward. And basically, we get to create laws, or provide funding to help eliminate—to help prevent fraud. That is why, through the American Rescue Plan, we in Congress provided that type of significant funding for oversight and improvements for our unemployment insurance systems.

Now, Mr. Horowitz, earlier I think you mentioned, you know, that is exactly what we are doing and have been doing right now. And so, my question to you is did that funding help crack down on fraud during the pandemic, and will it help states in the future protect from fraud?

Mr. HOROWITZ. So, the funding did help states make a start in this effort. I think there is more that needs to be done, as GAO has reported on and DoL OIG has reported on.

But the extent to which you modernize and improve the systems, you not only reduce the rate of fraud, but you improve the benefit, you improve the delivery of benefits to people who are entitled to get the benefits.

Mr. PANETTA. Right. Do you have many examples of states that are modernizing, with this funding, their unemployment systems?

And are there any lessons learned, looking at any particular states?

Mr. HOROWITZ. There are multiple states, actually, that are moving forward. So, I am not going to single any out, but they are working through their national association to do that.

And I would say the key movement forward is modernizing their systems and taking steps to do identity verification. So, there is a variety of tools being tested in—among the states. But that, to me, from what I have seen so far—not just, by the way, with unemployment insurance, with SBA as well, and other Federal programs—the need to put in place identity verification.

Mr. PANETTA. Understood. And then just let me throw this out there. Would it help if there was a national standard for unemployment systems when it comes to maybe—and I think you guys have mentioned this—technology, data gathering, or—in order to help states set up systems for employing unemployment insurance?

Mr. HOROWITZ. You know, I think that is an excellent question, Congressman, and a key question for Congress. And—because we have largely built an unemployment insurance system that is managed effectively at the state level, with 54 entities, the 50 states, D.C. and territories.

And the question is, how much do you want to centralize it? How much do you want to give authority to the Labor Department to manage those systems? And I know GAO has written on that and spoken about that, as well. It is a policy question, really, for the Congress to consider.

Mr. PANETTA. Mr. Dodaro.

Mr. DODARO. I think it would be a good idea to have some minimum national standards. You don't want to hamstring the states from being innovative and trying different approaches, because that could be beneficial.

But you have to have some minimum standards that are in place, particularly for IT systems, particularly if you want those systems to be able to talk one another, and to have—be able to cross-match. As we have been—pointed out this morning, if somebody files a claim, you know, in one state, they can file in all the other states, and nobody would know the difference, because there is no way to cross-compare.

There ought to be cross-comparisons against incarcerated people, as well. There is a system that is kept for that, as well.

Unless there are standards, you are not ever going to have the optimum IT system network, nationally, to deal with a global problem like we had before.

Mr. PANETTA. Great. Mr. Turner, anything on a national standard?

Mr. TURNER. The only thing that I could say to add is that I think there needs to be some kind of central database that the OIG has direct access to, as well as the Department and the States.

Mr. PANETTA. Great, great. Thank you, gentlemen.

Mr. Chairman, I yield back. Thank you.

Chairman SMITH. Thank you, Representative.

I would like to thank our witnesses for being here the whole time, and for the great discussion.

Please be advised that members have two weeks to submit written questions to be answered later in writing. Those questions and your answers will be made part of the formal hearing record.

With that, the committee stands adjourned.

[Whereupon, at 2:08 p.m., the committee was adjourned.]

MEMBER QUESTIONS FOR THE RECORD

U.S. GOVERNMENT ACCOUNTABILITY OFFICE
441 G St. N.W.
Washington, DC 20548

March 8, 2023

The Honorable Jason Smith
Chairman
Committee on Ways and Means
House of Representatives
Attention: Ms. Cheryl Vincent

Dear Mr. Chairman:

This letter responds to your request that we address questions submitted for the record related to the Committee's February 8, 2023, hearing entitled *The Greatest Theft of Taxpayer Dollars: Unchecked Unemployment Fraud.* GAO's responses to these questions are enclosed.

In addition to the enclosed responses, at the request of this Committee and as part of our oversight responsibilities under Section 19010 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Public Law 116-136, we plan further, in-depth work at the Department of Labor (DOL) and at selected states to develop information on, among other things, how DOL and states specifically used the funding provided by the American Rescue Plan Act. We expect to issue a report on this work to this Committee and the committees named in Section 19010 of the CARES Act in fall 2023.

If you have questions about this response or need additional information, please contact me or Seto Bagdoyan, Director, Forensic Audits and Investigative Service, at bagdoyans@gao.gov or at (202) 512-6722.

Sincerely yours,

Gene L. Dodaro
Comptroller General
of the United States

Enclosure

House Committee on Ways and Means
Questions for the Record
The Greatest Theft of Taxpayer Dollars: Unchecked Unemployment Fraud
February 8, 2023

Chairman Jason Smith

Question #1: Beyond leveraging the National Association of State Workforce Agencies (NASWA) or identity verification tools, what specific steps is the Department of Labor (DOL) taking to identify new technology solutions, such as advanced analytics, to help states better detect and prevent fraud?

In August 2021, in announcing the issuance of a $1.2-billion blanket purchase agreement (BPA) to three vendors, DOL noted a number of services these vendors would provide to states to address immediate fraud concerns, including advanced analytics. Specifically, the vendors would help states employ cross-matching technology to verify applicants' identities at the time of filing for unemployment compensation programs and tools to identify suspicious attributes after claims are filed. DOL further noted that the vendors would work with states to develop identification verification options that do not require computer access, offer customer service in claimants' native languages, and provide accessibility standards to serve the disability community. Additionally, in October 2021, DOL announced that states that could gain access to the Social Security Administration's Prisoner Update Processing System through the Interstate Connection Network data exchange.

We plan further, in-depth work at DOL and at selected states to develop information on the agency's experiences with the BPA and the types of services vendors have provided to states to help address unemployment insurance (UI) fraud.

Question #2: In the American Rescue Plan Act (ARPA), DOL was allocated $2 billion for preventing and detecting UI fraud, promoting equitable access, and ensuring timely benefits payments. What, if anything, has DOL done to help states specific to preventing and detecting fraud? Have any states received funding focused on leveraging analytics to help prevent and detect UI fraud?

In response to the ARPA funding, in August 2021, DOL issued a four-part plan for using the $2 billion to combat fraud. The plan includes the following actions:

- *Sending experts directly to states to help them address challenges related to fraud, benefit access, and benefit timeliness*. DOL officials said they have sent teams of experts in fraud, technology, and equity to help states identify claims processing deficiencies as well as opportunities to address equity in the UI system. According to these officials, the teams focus on operations, communications, and process flows. The officials said the teams also focus on technologies that support the timely distribution of benefits, reduction of backlogs, equitable access to UI benefits, and fraud prevention and detection.

  As of January 12, 2023, according to DOL, its Tiger Team initiative has been working with 30 states to identify immediate needs and issues to achieve improvements in operational processes and customer experiences, while also proposing solutions to address fraud and support equitable access for legitimate claimants. Tiger Teams have prepared and delivered 244 recommendations to 25 states, of which 12 states have requested and been awarded funding to move towards execution of the submitted projects. DOL will be working with

three more states in early 2023. Further, DOL has made resources available at no cost to states to assist with project execution support and DOL is working directly with states to help them implement the Tiger Team recommendations in a timely manner. According to DOL, its Employment and Training Administration continues to interact with states regularly to identify areas of opportunity, project timelines and milestones, and leading indicators of success, as well as address any identified state challenges regarding implementation of the grant-funded recommendations.

- *Providing states with grants to combat potential fraud and address equity.* DOL notified state workforce agencies regarding the availability of up to $140 million in grants to support states with fraud detection and prevention, including identity verification and overpayment recovery activities, in all unemployment compensation programs. As of December 2022, it had provided $133.8 million in fraud prevention grants in 50 states. In addition, states receiving these funds must provide claims data to the DOL Office of Inspector General during the duration of the grant for the purposes of investigating fraud and conducting audits.

  DOL officials plan to provide states with grants to address equity issues, such as by improving access to the regular UI program for individuals with disabilities or individuals who have limited or no internet access. According to these officials, states seeking these funds are required to identify the equity gaps they plan to address and the metrics they plan to use to measure improvement in equitable access. As of January 12, 2023, DOL announced eleven rounds of awards totaling over $166 million to 33 states. These grants are provided to states to support innovative strategies and solutions to promote equitable access to unemployment compensation programs. According to DOL, such strategies include efforts to improve public awareness of the program; improve service delivery so people have a better experience and receive their first benefit payments sooner and continue to receive benefits as long as they are eligible; and develop a better understanding of the equity challenges that need to be addressed.

- *Supporting states in fully modernizing their IT systems.* DOL officials said they plan to support states efforts to fully modernize their information technology (IT) systems. The officials said they plan to select states that are in various stages of IT modernization and work with them to develop modular technology solutions that can be integrated with state systems.

- *Contracting with vendors that can assist states in preventing identity fraud.* According to DOL officials, they have awarded purchase agreements to three vendors that states can use to combat identity-fraud. Officials noted that they have concerns about the equity of states' processes for flagging claims for potential fraud. The officials also noted that they hope to identify any gaps in applicants' access to benefits that may result from states' identity verification efforts.

We plan further, in-depth work at DOL and at selected states to develop information on how the agency and states specifically used the funding provided by the American Rescue Plan Act, including whether and how states have used the funding to leverage data analytics to help prevent and detect UI fraud.

Question #3: Shortly after the passage of ARPA, a $1.2 billion blanket purchasing agreement was awarded to combat fraud. Have these funds been leveraged and if so, how have they been used?

We plan further, in-depth work at DOL and at selected states to develop information on how the agency has leveraged these funds and its experiences with the August 2021 BPA; and the types of services vendors have provided to states to help address UI fraud.

OFFICE OF INSPECTOR GENERAL
U.S. DEPARTMENT OF LABOR

House Committee on Ways and Means (HWM)
"The Greatest Theft of Taxpayer Dollars: Unchecked Unemployment Fraud"
February 8, 2023
Questions For the Record (QFRs)

Chairman Smith (February 13, 2023)

1. **Unemployment insurance (UI) fraud continues to plague State UI systems. And with a possible recession looming, we can expect UI systems to again be strained and criminals to prey on these overwhelmed systems. Beyond leveraging the National Association of State Workforce Agencies (NASWA) or identity verification tools, what specific steps is DOL taking to identify new technology solutions, such as advanced analytics, to help States better detect and prevent fraud?**

   Response: Technology including advanced analytics is vital in performing the oversight function. The Department has stated that it is taking the following steps to identify or enhance technology solutions:
   - The Office of Unemployment Insurance Modernization is providing sample code for UI applications including online identity verification through login.gov, retrieving the 1099-G and for showing claim status, and technology best practices.
   - The Department of Labor has awarded grants to assist states with fraud prevention. As of September 30, 2022, $134 million in fraud prevention grants were awarded to 50 states to support states with fraud detection and prevention, including identity verification and overpayment recovery activities. Additionally, the Department of Labor's Tiger Team initiative has worked with 24 states under the up to $200 million grants opportunity to support states in improving UI systems and processes.

2. **In the American Rescue Plan Act, the Department of Labor was allocated $2 billion for preventing and detecting UI fraud, promoting equitable access, and ensuring timely benefits payments. What, if anything, has DOL done to help states specific to preventing and detecting fraud? Have any states received funding focused on leveraging analytics to help prevent and detect UI fraud?**

   Response: According to the Department of Labor, the Office of Unemployment Insurance Modernization is providing oversight and management of the $2 billion allotted to UI initiatives by American Rescue Plan Act to prevent and detect fraud, promote equitable access, ensure timely benefits payments, and reduce backlogs. Regarding the use of data analytics, the Office of Unemployment Insurance Modernization is providing sample code for UI applications including online identity verification through login.gov, retrieving the 1099-G and for showing claim status, and technology best practices.

As of September 30, 2022:

- The Department of Labor awarded $134 million in fraud prevention grants to 50 states to support states with fraud detection and prevention, including identity verification and overpayment recovery activities;
- The Department of Labor awarded over $150 million in grant funding to 29 states for activities that promote equitable access to UI programs; and
- The Department of Labor's Tiger Team initiative has worked with 24 states under the up to $200 million grants opportunity to support states in improving UI systems and processes.

Further, on December 2, 2021, the Department published Training and Employment Notice No. 16-21, announcing the Claimant Experience Pilot Project. According to the Department, this pilot seeks to test interventions developed to deliver an improved process for completing initial intake questions and identity proofing while keeping equity, fraud prevention, and claim timeliness at the forefront. The Department stated it continues to evaluate whether this may be a possible solution for use in the UI program.

3. **The American Rescue Plan Act (ARPA) included $2 billion for the Department of Labor to prevent and detect UI fraud, promote equitable access, and ensure timely benefits payments. Shortly after passage of ARPA, a $1.2 billion blanket purchasing agreement was awarded to combat fraud. Have these funds been leveraged and if so, how have they been used?**

   Response:

   According to the Department, no states have exercised any orders against the $1.2 billion blanket purchase agreement with LexisNexis.

Rep. Malliotakis (February 8, 2023)

1. **Since employees, not the state, pay into the unemployment insurance trust fund, will small businesses be left holding the bag if New York continues to fail to repay its federal advance due to their failure to limit fraudulent unemployment payments? Will their per worker tax keep increasing year over year?**

   Response: All of the pandemic UI benefits provided by the CARES Act and subsequent legislation were wholly funded by the federal government. Fraud committed against those programs came from federal funds, not state UI funds. The only benefits funded by the state were regular UI benefits. Fraud committed against pandemic UI programs would not have an effect on any advances provided by the Department to the states nor would it lead to an increase in any advance amount.

2. **How many deceased individuals received unemployment benefits nationwide?**

   Response: As of April 2022, we identified that the Social Security Numbers of deceased individuals were used by 205,494 claimants to obtain $139,483,136 in benefits.

PUBLIC SUBMISSIONS FOR THE RECORD

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February 8, 2023

The Honorable Jason Smith
Chairman
Committee on Ways and Means
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Richard Neal
Ranking Member
Committee on Ways and Means
U.S. House of Representatives
Washington, D.C. 20515

Dear Chair Smith and Ranking Member Neal:

On behalf of the 1.4 million members of the American Federation of State, County and Municipal Employees (AFSCME), I am writing with respect to the February 8 hearing entitled, "The Greatest Theft of Taxpayer Dollars: Unchecked Unemployment Fraud." I request that this letter be included in the record of the hearing.

As you assess the economic challenges that our country faced during the COVID-19 pandemic, we encourage you to consider the extraordinary positive impact that unemployment insurance (UI) benefits had on workers and their communities during an unprecedented time. Congress and the federal government took swift action in a bipartisan way to expand unemployment insurance programs in response to COVID-19. As initial UI claims jumped from over 200,000 to over 6 million in a three-week period in March 2020 and remained above 1 million for all UI programs for more than a year[1], UI and Employment Service (ES) workers delivered benefits and services to millions of applicants and beneficiaries. These benefits were delivered despite decades of underfunding of state administration of the UI program and the information technology (IT) programs that support the program. From 1999 to 2019, on an inflation adjusted basis, federal funding for state administration of UI declined 30%[2]. This large funding decrease occurred alongside a dramatic increase in the U.S. population and workforce.

During the peak of the COVID-19 pandemic, unemployment insurance kept Americans out of poverty and kept local economies afloat. In 2020 alone, UI benefits prevented 4.7 million more people, including 1.4 million children, from living below the

[1] DOL Unemployment Insurance Weekly Claims Database: https://oui.doleta.gov/unemploy/claims.asp
[2] National Employment Law Project: Understanding the Unemployment Provisions of the Families First Coronavirus Response Act: https://www.nelp.org/publication/understanding-the-unemployment-provisions-of-the-families-first-coronavirus-response-act/

poverty line[3]. As many as 46 million individuals received unemployment payments in 2020, meaning that 1 out of 4 workers in America benefited from these vital programs. In 2021, government estimates suggest that UI benefits kept 6 million Americans out of poverty[4]. Without the bipartisan cooperation to support American workers and families during COVID-19, the hardship faced by our country and our economy would have been far greater.

AFSCME members staffed the front lines of the COVID-19 pandemic to help our country recover. One of the many roles that our members fill is in the Employment Service (ES), the cornerstone of the New Deal and critical in the ES/UI partnership. We represent merit-based state ES workers who play a vital role in UI eligibility determination and continuation, reemployment services, and work search assistance. Across multiple studies, reemployment services and UI work search requirements, which are part of the work test conducted by state merit ES staff, have been shown to shorten the amount of time that a worker is unemployed. In addition, these services can produce higher earnings gains, especially for women[5]. By supporting the merit-based Employment Service and UI workers, Congress is in turn supporting effective, efficient and equitable delivery of UI benefits and employment services.

One of the many important lessons of the COVID-19 pandemic is to listen to front-line workers. AFSCME members serving in the Employment Service in several states reported that flawed IT systems created opportunities for cybercriminals to hack into systems. States either ignored or did not seek the advice of front-line UI and ES workers when the states were building their IT systems or when front-line staff identified these IT systems' flaws after they were already in place. During the pandemic, the CARES Act allowed states to outsource UI staff to respond to the surge in UI claims. Some states contracted this work to private companies that provided little or no training and lower pay to outsourced staff who, without sufficient training or support, made significant mistakes. This created additional work for already overworked, overstressed state merit staff who had to fix outsourced staff members' errors. This lack of training and accountability caused high turnover among contracted staff and supervisors, corruption, and payment delays for the claimants. Despite these challenges, the UI and Employment Service workers still delivered a staggering number of benefits to millions of Americans. These benefits in turn kept local economies afloat.

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[3] Center for Budget and Policy Priorities: Historic Unemployment Programs Provided Vital Support to Workers and the Economy During Pandemic, Offer Roadmap for Future Reform: https://www.cbpp.org/research/economy/historic-unemployment-programs-provided-vital-support-to-workers-and-the-economy

[4] https://www.cbpp.org/research/economy/historic-unemployment-programs-provided-vital-support-to-workers-and-the-economy

[5] Marios Michaelides, Eileen Poe-Yamagata, Jacob Benus, and Dharmendra Tirumalasetti, "Impact of the Reemployment and Eligibility Assessment (REA) Initiative in Nevada," January 2012, https://wdr.doleta.gov/research/FullText_Documents/ETAOP_2012_08_REA_Nevada_Follow_up_Report.pdf. The study showed a decrease in weeks of duration that was greater than in any other state. The state accomplished this by requiring merit ES staff to conduct the entire work test. In other states, non-merit Workforce Innovation Opportunity Act (previously Workforce Investment Act) staff administer some of these services. For additional evidence of REA's success, see Stephen A. Wandner, "Solving the Reemployment Puzzle: From Research to Policy," W.E. Upjohn Institute for Employment Research, Kalamazoo, MI, 2010, https://research.upjohn.org/up_press/205/.

As the Committee moves forward in its important work to assess the Unemployment Insurance system, we urge you to listen to the trained and experienced merit-based UI and Employment Service workers that keep this system running. Congress should support and fully fund the merit-based UI and Employment Service workforce so that the Unemployment Insurance system is even better prepared for the next public health emergency or economic downturn. Our American workforce deserves strong UI and ES programs to support them when they need it most. We are here to assist the Committee in their important work on behalf of America's workers and the Employment Service.

Sincerely,



Edwin S. Jayne
Director of Federal Government Affairs

ESJ:LM:dmg

ATTACHMENT II

U.S. Department of Labor

Employment and Training Administration
200 Constitution Avenue, N.W.
Washington, D.C. 20210

September 13, 2022

MEMORANDUM FOR: CAROLYN R. HANTZ
Assistant Inspector General for Audit

FROM: BRENT PARTON
Acting Assistant Secretary

SUBJECT: Response to Draft Alert Memorandum: *Potentially Fraudulent Unemployment Insurance Payments in High-Risk Areas Increased to $45.6 Billion*, Report Number: 19-P22-009-03-315

The Department of Labor's (Department) Employment and Training Administration (ETA) appreciates the opportunity to respond to the above-referenced Office of Inspector General (OIG) draft alert memorandum.

ETA recognizes the OIG's crucial role under the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Pub. L.116-136, in helping to combat fraud and abuse within the Unemployment Insurance (UI) programs. Additionally, ETA agrees with the OIG's assessment regarding the significant increase in fraudulent activity challenging state UI programs across the nation during the pandemic. ETA is committed to continuing its efforts to explore, research, identify, and provide states with new tools, resources, strategies, and guidance, as warranted, to help states combat the continually changing and new types of sophisticated fraud impacting the UI system.

This alert memorandum builds on and provides additional information since the OIG's February 2021 alert memorandum, *The Employment and Training Administration (ETA) Needs to Ensure State Workforce Agencies (SWA) Implement Effective Unemployment Insurance Program Fraud Controls for High Risk Areas*, Report Number: 19-21-002-03-315. ETA would like to take this opportunity to detail the many actions taken by ETA since February 2021 to support states in addressing fraud. Many of ETA's actions have been directly aimed at addressing the specific types of fraud identified by the OIG: individuals using identical social security numbers to file claims across multiple states, using social security numbers belonging to deceased persons and incarcerated individuals, and filing claims with suspicious email accounts.

ETA's Efforts to Combat Fraud in the UI Program. ETA continues to actively and aggressively address fraud in the Unemployment Compensation (UC) programs and UI program integrity remains a top agency priority. While this alert memorandum focuses almost exclusively on facilitating OIG's access to state-owned UI data, ETA's efforts extend beyond this to also include providing extensive guidance, technical assistance, and funding to states to

support them in combatting fraud and reducing improper payments, which includes strengthening fraud prevention and detection and improving overpayment recovery activities. ETA has invested in new tools, datasets, and resources and made these available to states to aid states in more quickly identifying potential fraud. ETA continues to develop and oversee implementation of fraud mitigation strategies to address emerging and evolving fraud risks.

Since the publication of the earlier alert memorandum in February 2021, ETA has taken the following actions supporting states' efforts to address fraud in the UI programs:

- ETA continues to provide guidance to states in the form of Unemployment Insurance Program Letters (UIPL) and Training and Employment Notices (TEN) that alert states to new UI program requirements, important program trainings, UI integrity resources, and operational recommendations. ETA has included a focus on fraud prevention and program integrity in the majority of its recent guidance documents and has issued a total of 21 program integrity-related UIPLs and TENs since February 2021. A list of these guidance documents is provided in Attachment I to this response.

- ETA continues to provide fraud prevention grant opportunities to states to strengthen their efforts. Prior to February 2021, ETA announced the availability of up to a total of $200 million in fraud prevention grants and awarded states a total of $199.7 million in funding to prevent and detect fraud and recover overpayments in the Pandemic Unemployment Assistance (PUA) and Pandemic Emergency Unemployment Compensation (PEUC) programs. Since February 2021, ETA has announced the availability of up to an additional $465 million (a total of up to $665 million) in funding to states for fraud prevention and detection and overpayment recovery activities. See UIPL No. 28-20, Change 2, issued August 11, 2021; UIPL No. 28-20, Change 4, issued July 22, 2022; and UIPL No. 22-21, issued August 11, 2021.

- Since July 2021, the Department has been deploying multidisciplinary technical assistance teams (Tiger Teams) to states to conduct consultative assessments to address state-specific, unique challenges and to collect best practices on preventing and detecting fraud, promoting equitable access, reducing backlogs, and ensuring timely payment of benefits. To date, the Department's Tiger Teams have worked with 24 states to address immediate needs and issues to achieve improvements in operational processes and customer experiences, while also proposing solutions to address fraud and support more equitable access for legitimate claimants.

  ETA also provided a grant opportunity under UIPL No. 02-22, making available to states up to $200 million to support states in improving UC systems and processes following a Tiger Team consultative assessment for fraud detection and prevention, promoting equitable access, and ensuring the timely payment of benefits, including backlog reduction, for all UC programs. Trends from the Tiger Teams recommendations are found at https://oui.doleta.gov/unemploy/pdf/TigerTeamCohortTrendsJune_2022.pdf.

- ETA has included combatting UI fraud, in addition to reducing UI improper payment rates, as a National Priority for state UI agencies as part of the annual State Quality

Service Plan (SQSP) process for Fiscal Years (FY) 2022 and 2023 (*see* UIPL No. 24-21, issued August 20, 2021, and UIPL No. 17-22, issued July 22, 2022). ETA also increased states' SQSP Integrity Action Plan (IAP) reporting requirements for the FY 2022 SQSP IAP by requiring states to begin providing a six-month IAP update to their integrity strategies. Furthermore, ETA developed a new IAP template for states' use in developing their FY 2023 SQSP IAP submissions and is requiring states to submit more comprehensive and detailed IAPs that address specific integrity topics, including fraud prevention and detection and overpayment recovery strategies in FY 2023.

- On March 22, 2021, the Department launched www.dol.gov/fraud, a website created for people to understand UI identity fraud, how to report it, and to provide resources to help victims. The Office of Unemployment Insurance (OUI) worked closely with other federal and state agencies to consolidate the necessary steps to help victims of UI identity fraud and conducted testing to confirm the website's instructions were clear and easy to understand.

- Following the OIG's data analysis of UI claims data obtained from subpoenas and discussed in the alert memorandum issued on February 22, 2021, ETA developed a process to receive data from the OIG and share encrypted files with states that included the results of the OIG's analysis. ETA coordinated and oversaw delivery of this data to the states to aid state efforts in preventing fraud and in pursuing investigations on these claims. This was completed at the end of April 2021.

- The Department, in partnership with the Social Security Administration (SSA), established a secure incarceration data exchange between the Interstate Connection Network (ICON) and the SSA's Prisoner Update Processing System (PUPS). The incarceration data exchange provides state UI agencies with the ability to cross-match UI claims information with SSA's prisoner data to aid states in determining if an individual meets UI eligibility requirements. See UIPL No. 01-22.

- ETA continues to provide funding and support to the UI Integrity Center to enhance existing tools and develop new resources for states to use to combat fraud, strengthen fraud prevention and detection of improper payments, enhance fraud management operations, and improve overpayment recovery efforts. ETA has strongly encouraged states to take advantage of the UI Integrity Center's resources, specifically the Integrity Data Hub (IDH). State participation in the IDH increased significantly since February 2021, at which time only 39 states were using the Suspicious Actor Repository (SAR), 32 states were using the Multi-State Cross-Match, (MSCM), and 21 states were using the Identity Verification solution (IDV). To date, all 53 states have executed an IDH Participation Agreement, 50 states are using the SAR, 48 states are using the MSCM, and 41 states are using the IDV solution. ETA continues to work with all states to strengthen the robustness and frequency of how they are using these tools. In addition, the UI Integrity Center has made extensive enhancements to IDH functionality and developed new tools and resources to support states with UI integrity and fraud prevention activities. A list of these enhancements and resources are provided in Attachment II to this response.

- ETA continues to strengthen our partnership with the OIG by meeting regularly with the OIG to discuss emerging UI fraud issues, streamline communication with states, and coordinate fraud prevention and overpayment recovery efforts. ETA's activities occurring in partnership with the OIG are set out in Attachment III to this response.

- ETA has worked with states, Federal law enforcement, and banks to facilitate conversations and aid in the recovery of fraudulently obtained and overpaid UI funds. ETA has provided guidance, technical assistance, coordination, and education opportunities to state UI programs to help states navigate the complexities of the Automated Clearing House (ACH) network, banking regulations, law enforcement initiatives, and the many other challenges associated with overpayment recovery. These efforts are reflected in Attachment IV to this response.

- The Department continues to encourage states to strengthen identity verification processes and procedures and is exploring options to provide states with additional support in this area. The Tiger Teams have made recommendations to eight states to improve identity verification. The recommendation notes that the Department strongly encourages states to adopt an array of solutions and techniques to detect and fight fraud and to have robust strategies in place to verify the identity of individuals applying for UI benefits. On April 13, 2021, ETA issued guidance to highlight the importance of identity verification in ensuring the proper payment of unemployment benefits and to provide guidance to states on required administrative procedures when processing claims and determining UI eligibility in cases where an individual's identity is questionable. See UIPL No. 16-21. The Department is currently engaged with the Government Services Administration (GSA) to explore the identity verification services available through GSA's login.gov. On March 31, 2022, an initial pilot began with a state UI agency to evaluate login.gov as a potential identity proofing solution for state UC programs. The Department is continuing to evaluate the pilot to examine how login.gov might be implemented in ways that best support equitable access and program integrity goals, as well as how the Department might extend the solution to other states.

Filing UI Claims in Multiple States. Concerning the content of this alert memorandum, ETA believes a couple of topics merit comment. First, in discussing multi-state claims, the OIG erroneously states that a claimant can only file for UI benefits in one state and indicates as part of their methodology to estimate the potential amount of fraud, that they examined claims using the same social security number filed in two or more states. In fact, individuals may file in multiple states; however, they are only eligible to receive benefits from one state and one program for any given week of unemployment. For example, a person may work and earn wages in multiple states and is unsure in which state they should file a claim. So, they file in the states they have earned wages. The state agencies then determine the appropriate paying state and will request the wage credits from the other state(s) transferred to the paying state for use in determining eligibility.

Facilitating OIG Access to State-Owned UI Data. Next, ETA notes that much of this alert memorandum focuses on the OIG's recommendation to have access to state UI data for investigative and audit purposes. This issue has been addressed in prior OIG reports and alert

memoranda. ETA is concerned that the OIG's mischaracterization of the Department's efforts to provide the OIG access to state UI data portrays ETA as opposing or obstructing the effort to provide such access. This characterization is not fair and is not reflective of ETA's actions. The UI confidentiality regulation does not obstruct the OIG from accessing state UI data. ETA has acted to provide the OIG the requested access but is limited by the Administrative Procedure Act (APA) in what it can do immediately and continues to pursue ongoing efforts in good faith to provide access. In addition, contrary to what is conveyed in this alert memorandum, ETA has not changed the interpretation of its UI confidentiality regulations or created any type of exemption to the regulations.

The UI confidentiality regulation, found at 20 CFR Part 603 and explained in UIPL No. 04-17, Change 1, are derived from the "methods of administration" requirement of Section 303(a)(1) of the Social Security Act and require states to provide the OIG their UI data for investigative purposes. The regulations permit, but do not require, states to provide such data to the OIG for audit purposes. As such, the Department is unable to enforce such disclosure for purposes of audit as a condition of states receiving their UI administrative grant, but this does not prevent the OIG from enforcing its authority under the Inspector General (IG) Act. The alert memorandum mischaracterizes the Department and the existing UI confidentiality regulations as obstructing the OIG's access to data. The regulations, which implement Section 303(a)(1) of the Social Security Act, do not obstruct the OIG's access. The OIG, using its own authority under the IG Act, may request the data and the UI confidentiality regulations permit states to provide the data for audit purposes.

In the Department's Spring 2022 regulatory agenda, ETA announced that it is considering an update that would, among other things, require states, as a condition of receiving their UI administrative grant under the Social Security Act, to provide the OIG with ongoing access to UI data for audit purposes, in addition to investigative purposes, and that ETA intends to publish a Request for Information concerning this matter in November 2022.

ETA has been taking actions to support the OIG having access to UI data for both purposes in the interim until the existing regulations can be revised. In August 2021, using authority provided under the CARES Act, ETA issued guidance to states requiring states to provide the OIG access to UI data for investigations and audits for weeks of unemployment through the expiration date of the CARES Act programs. This alert memorandum repeatedly mischaracterizes the recent guidance issued by the Department as a reinterpretation of, or a new exception, to the existing UI confidentiality regulations. This is not correct. This guidance was not the result of a new interpretation or exception to the regulation. It was done under the temporary authority of the CARES Act. The Department relied on its authority under the CARES Act to issue implementing guidance without going through notice and comment rulemaking. In addition, and separate from the CARES Act, the guidance reiterated an *ongoing* requirement to disclose such data to the OIG for fraud investigations and rescinded prior guidance to make clear that such disclosures do not require any written agreement between the state and the OIG.

Also, in August 2021, ETA made available to states an opportunity to seek fraud prevention grants and conditioned these grants on states providing the OIG access to state UI data. Fifty

states have been awarded these grants which currently have a performance period through December 2023. ETA has committed to the OIG that it is actively exploring future opportunities to continue the requirement for states to provide the OIG access to data until the regulations can be revised.

Finally, the Department has committed to pursuing a change in the regulations set forth at 20 CFR Part 603 to require states to provide UI data for audits, but to exercise that authority, the Department must do so through notice and comment rulemaking because this would be a new interpretation of the statute that would affect the rights and obligations of the regulated community. The APA prohibits the Department from issuing new requirements without first providing notice to the public and an opportunity for comment.

Response to the OIG Recommendations

ETA is committed to continuing its work with states to implement the OIG's recommendations. Below, please find each of the OIG's recommendations contained in this alert memorandum followed ETA's response and proposed action steps to address them.

Recommendation 1: Implement immediate measures to ensure [State Workforce Agencies] SWAs are required to provide ongoing access to the OIG by amending its current guidance, consistent with the OIG's analysis of 20 C.F.R. 603, 29 C.F.R. Part 96 and the IG Act, to require disclosures to the OIG for audits and investigations as necessary, mandatory, and without time limitation for the proper administration of the UI program.

ETA Response: ETA is committed to exploring all avenues and opportunities to legally require, rather than permit, states to provide the OIG access to state UI data, including for audit purposes. However, ETA is bound by the APA to engage in notice and comment rulemaking to make changes to the regulations at 20 C.F.R. Part 603. ETA will examine future grant opportunities as possible ways to extend the current grant condition on the fraud prevention grants. ETA will also look at other actions that can be taken to achieve this outcome. Based on a conversation with the OIG auditors and counsel on September 6, 2022, ETA will issue, as quickly as possible, a TEN reiterating the authority of the OIG under § 6(a) of the IG Act to request information and data from states for investigations and audits and that the Department's regulations do not contradict this authority. The TEN will encourage states to comply with any such requests made by the OIG.

Recommendation 2: Expedite OIG-related amendments to 20 C.F.R. § 603.6(a) to make ongoing disclosures of UI information to DOL OIG mandatory by expressly adding the U.S. Department of Labor, Office of Inspector General (including its agents and contractors) to the list of required disclosures that are necessary for the proper administration of the UI program without distinction as to purpose (e.g., audits versus investigations).

ETA Response: Based on a conversation with the OIG auditors and counsel on September 6, 2022, ETA will issue, as quickly as possible, a TEN reiterating the authority of the OIG under §6(a) of the IG Act to request information and data from states for investigations and audits and

that the Department's regulations at 20 CFR Part 603 do not contradict this authority. The TEN will encourage states to comply with any such requests made by the OIG. ETA will also continue with efforts to pursue changes to the UI confidentiality regulations at 20 CFR Part 603, but to do so, the Department must comply with the notice and comment requirements of the APA, given that this requirement is in a regulation and any change to the Part 603 regulations would affect the rights and obligations of the regulated community and as such would be a legislative rule, not an interpretive rule. As discussed in the response to Recommendation 1, ETA is committed to finding a path to continue the requirement beyond the current grant condition that is effective through December 2023, until the regulations can be properly changed. ETA will keep the OIG apprised of the efforts to achieve this result until it is accomplished.

Recommendation 3: Expedite OIG-related amendments to 20 C.F.R. § 603.5(i) to expressly make disclosures of UI information to federal officials for oversight, audits, and investigations of federal programs mandatory.

ETA Response: Based on a conversation with the OIG auditors and counsel on September 6, 2022, ETA will issue, as quickly as possible, a TEN reiterating the authority of the OIG under § 6(a) of the IG Act to request information and data from states for investigations and audits and that the Department's regulations at 20 CFR Part 603 do not contradict this authority. The TEN will encourage states to comply with any such requests made by the OIG. ETA will also continue with efforts to pursue changes to the UI confidentiality regulations at 20 CFR Part 603, which requires the Department to comply with the notice and comment requirements of the APA. As discussed in the response to Recommendation 1, ETA is committed to finding a path to continue the requirement beyond the current grant condition that is effective through December 2023, until the regulations can be properly changed. ETA will keep the OIG apprised of the efforts to achieve this result until it is accomplished.

Attachment I

Integrity-Related Unemployment Insurance Program Letters (UIPL) and Training and Employment Notices (TEN) issued since February 2021

UIPLs

- UIPL No. 28-20, Change 4, *Support for States to Resolve Outstanding Items from the Expired Coronavirus Aid, Relief, and Economic Security (CARES) Act Unemployment Compensation (UC) Programs, Including Additional Funding to Assist States with Reporting and Detection and Recovery of Overpayments*, issued July 22, 2022

- UIPL No. 17-22, *Additional Planning Guidance for the Fiscal Year (FY) 2023 Unemployment Insurance (UI) State Quality Service Plan (SQSP)*, issued July 22, 2022

- UIPL No. 16-22, *Announcement of the Pandemic Unemployment Assistance (PUA) Improper Payment Estimate Reviews and the Cancellation of the 2022 Benefit Accuracy Measurement (BAM) Paid Claims Peer Reviews*, issued July 14, 2022

- UIPL No. 02-22, *Grant Opportunity to Support States Following a Consultative Assessment for Fraud Detection and Prevention, Promoting Equitable Access, and Ensuring the Timely Payment of Benefits, including Backlog Reduction, for all Unemployment Compensation (UC) Programs*, issued November 2, 2021

- UIPL No. 01-22, *Announcing the Availability of an Incarceration Data Exchange and Instructions to Access the Data Exchange between the Unemployment Insurance (UI) Interstate Connection Network (ICON) and the Social Security Administration (SSA) Prisoner Update Processing System (PUPS)*, issued October 29, 2021

- UIPL No. 16-20, *Change 6, Pandemic Unemployment Assistance (PUA) Program: Updated Operating Instructions and Reporting Changes*, issued September 3, 2021

- UIPL No. 24-21, *Additional Planning Guidance for the Fiscal Year (FY) 2022 Unemployment Insurance (UI) State Quality Service Plan (SQSP)*, issued August 20, 2021

- UIPL No. 22-21, *Grant Opportunity to Support States with Fraud Detection and Prevention, Including Identity Verification and Overpayment Recovery Activities, in All Unemployment Compensation (UC) Programs*, issued August 11, 2021

- UIPL No. 28-20, Change 2, *Additional Funding to Assist with Strengthening Fraud Detection and Prevention Efforts and the Recovery of Overpayments in the Pandemic Unemployment Assistance (PUA) and Pandemic Emergency Unemployment Compensation (PEUC) Programs, as well as Guidance on Processes for Combatting Identity Fraud*, issued August 11, 2021

- UIPL No. 04-17, Change 1, *Requirement for States to Refer Allegations of Unemployment Compensation (UC) Fraud, Waste, Abuse, Mismanagement, or*

Misconduct to the Department of Labor's (Department) Office of Inspector General's (DOL-OIG) and to Disclose Information Related to the Coronavirus Aid, Relief, and Economic Security (CARES) Act to DOL-OIG for Purposes of UC Fraud Investigation and Audits, issued August 3, 2021

- UIPL No. 20-21, *State Instructions for Assessing Fraud Penalties and Processing Overpayment Waivers under the Coronavirus Aid, Relief, and Economic Security (CARES) Act, as Amended*, issued May 5, 2021

- UIPL No. 19-21, *Benefits Held by Banks and Financial Institutions as a Result of Suspicious and/or Potentially Fraudulent Activity and the Proportional Distribution Methodology Required for Recovering/Returning Federally Funded Unemployment Compensation (UC) Program Funds*, issued May 4, 2021

- UIPL No. 16-21, *Identity Verification for Unemployment Insurance (UI) Claims*, issued April 13, 2021

List of TENs

- TEN No. 01-22, *Adjudications Virtual Training and Conference*, issued July 20, 2022

- TEN No. 24-21, *Encouragement for States to Use the Integrity Data Hub (IDH) available through the Unemployment Insurance (UI) Integrity Center*, issued May 5, 2022

- TEN No. 23-21, *Unemployment Insurance Interstate Benefits and Federal Programs Training*, issued March 14, 2022

- TEN No. 22-21, *2022 Unemployment Insurance (UI) State Information Data Exchange System (SIDES) Seminar*, issued March 3, 2022

- TEN No. 16-21, *Announcing Grant Awards Made to States Selected to Participate in the Unemployment Insurance (UI) Information Technology (IT) Modernization Project - Claimant Experience Pilot*, issued December 2, 2021

- TEN No. 15-21, *Announcing the National Association of State Workforce Agencies (NASWA) Unemployment Insurance (UI) Integrity Center's Behavioral Insights Toolkit*, issued November 17, 2021

- TEN No. 06-21, *Accessing Unemployment Insurance (UI) Identity Verification and Fraud Protection (Identity Proofing) Services using the U.S. Department of Labor's (Department) Blanket Purchase Agreements (BPA)*, issued September 15, 2021

- TEN No. 19-20, *2021 Unemployment Insurance (UI) State Information Data Exchange System (SIDES) Seminar*, issue March 15, 2021

Attachment II

Unemployment Insurance (UI) Integrity Center Enhancements and Resources (Since February 2021)

- Implementation of a Bank Account Verification (BAV) service. The BAV service provides states with access to near real-time information to proactively identify and authenticate bank account information provided by the UI claimant by validating the account's status and ensuring the individual identified as the claimant is the account owner and/or authorized user prior to initiating the UI benefit payment. The BAV service went into Integrity Data Hub (IDH) production on February 15, 2022, and to date, 29 states are using the BAV service.

- Completion of two IDH Results Management projects, which includes IDH Results Prioritization that went live on June 22, 2021, and IDH Results Sorting, Filtering, and Outcomes that went live on May 5, 2022. IDH Results Prioritization allows states to receive IDH results in order of priority level to help states more quickly identify emerging UI fraud schemes. IDH Results Sorting, Filtering, and Outcomes allows states to analyze and manage IDH results quickly and easily. It also allows states to provide outcomes data to the IDH team which helps the IDH team better understand how states are utilizing the IDH.

- In October 2021, the UI Integrity Center launched the Behavioral Insights (BI) toolkit which brings together practices from the field of behavioral science to promote UI integrity and reduce UI improper payments. The BI Toolkit offers a collection of resources to help UI agencies improve integrity and customer compliance through targeted changes to program communications and processes. The BI toolkit includes a sub-collection of resources, articles, templates, and how-to information housed within the online Knowledge Exchange Library. On November 17, 2021, ETA issued Training and Employment Notice No. 15-21, announcing the availability of the BI toolkit.

- Conducted 10 webinars for states on fraud prevention and detection strategies, including webinars on UI identity fraud, internal security, fictitious employers, identity verification, overpayment recoveries, and IDH results management and prioritization.

- Presented to states on fraud prevention, detection, and overpayment recovery strategies and effective integrity tools during multiple events in Calendar Year 2021 and 2022, including the 2022 National Association of State Workforce Agencies' UI Interstate Benefits and Federal Programs Training Conference, the State Information Data Exchange Seminar, and the 2021 NASWA Summit.

- Convened monthly regional integrity workgroups with state UI integrity management and field staff to provide states an opportunity to share and discuss specific integrity strategies and share promising practices, recent fraud activities and countermeasures, and innovative operational enhancements on integrity topics with the broader UI community.

- Continued adding to the UI collection in the Knowledge Exchange Library (Library), which is an online, searchable, knowledge-sharing platform that includes a repository of all UI Integrity Center resources including, model state operational processes, promising state practices, and recommendations to strengthen UI program integrity. The Library currently contains over 2,600 UI integrity-related resources.

- The UI National Integrity Training Academy (Academy) continues to develop and provide rigorous and relevant training programs and materials to states, offering program integrity training for state UI staff via online, eLearning modules and virtual instructor-led trainings that lead to credentials and certification. Current all-time enrollments in Academy trainings are up to 13,690 learners, which represent all 53 states.

Attachment III

Employment and Training Administration (ETA) Activities in Partnership with the Office of Inspector General (OIG) (Since February 2021)

- On May 12, 2021, ETA coordinated a call with states and the OIG to provide updates on OIG activities and to encourage states to partner with the OIG to combat fraud.

- On August 3, 2021, ETA issued Unemployment Insurance Program Letter (UIPL) No. 04-17, Change 1, which outlined requirements for states to refer allegations of Unemployment Compensation (UC) fraud, waste, abuse, mismanagement, or misconduct to the OIG and to disclose information related to the Coronavirus Aid, Relief, and Economic Security (CARES) Act to the OIG for purposes of UC fraud investigation and audits. ETA also reminded states of their requirements to share information requested by the OIG for both audits and investigations for the period of performance of the grants that otherwise would not be required of states.

- On August 11, 2021, ETA issued UIPL No. 22-21, announcing the availability for fraud prevention grant funding and conditioned the award of the grants on states agreeing to information disclosure with the OIG.

- ETA updated the Unemployment Insurance (UI) Integrity Center's cooperative agreement to include Integrity Data Hub (IDH) data sharing with the OIG. ETA and the UI Integrity Center are actively engaged in a substantial data extract project to share IDH data with the OIG and have completed several actions to advance this effort. A new IDH Participation Agreement was developed, to include a provision for sharing state IDH information with the OIG. ETA announced Version 5.0 of the IDH Participation Agreement in Training and Employment Notice No. 24-21 on May 5, 2022. In addition, the UI Integrity Center provided an estimated timeline and budget to ETA for the OIG IDH Data Extract project on April 15, 2022.

- ETA worked with the OIG to develop and refine a process for states to submit fraudulent Facebook pages directly to Facebook to facilitate the quick removal of the fake social media pages.

- ETA engaged with the OIG and other Federal agencies on a workgroup to identify strategies to mitigate text message phishing schemes. As part of this effort, ETA's Regional Offices obtained information for the workgroup about the scope of the fraudulent text messaging issue by asking states to provide examples/screenshots of known text messaging schemes. ETA's Regional Offices also gathered information from states on their current text messaging practices to inform public outreach regarding fraudulent text messaging.

- ETA disseminates National Unemployment Insurance Fraud Task Force alerts to its Regional Offices and the states.

- ETA held a national "meet and greet" meeting between ETA's Regional Offices and the OIG's Regional Offices on December 6, 2021, to strengthen the Regional Office relationships and to begin developing reoccurring joint ETA/OIG Regional Office calls with states to share fraud trends and analysis, provide recommendations for responding to emerging fraud schemes, offer updates on prosecution efforts, and facilitate sharing of UI fraud and integrity-related challenges and best practices among states. ETA's Regional Offices began hosting the joint quarterly conference calls with the OIG and the states in the first quarter of Calendar Year 2022 and continues to hold calls each quarter.

- On August 25, 2022, ETA and the OIG presented to over 1,200 UI adjudicators during the closing plenary of the adjunction training conference. ETA presented on national UI integrity efforts and the OIG presented on their case work in the UI fraud space. The presentations outlined the need for ETA, state UI agencies, and the OIG to work together to prevent and detect UI fraud through enhanced collaboration and data sharing.

Attachment IV

Overpayment Recovery Efforts

- Ongoing participation on banking workgroup calls to discuss ongoing recovery efforts and improve communication between banking organizations, federal government agencies, and law enforcement agencies.

- ETA issued Unemployment Insurance Program Letter (UIPL) No. 19-21 on May 4, 2021, providing guidance to states on the proportional distribution methodology for recovering federally funded Unemployment Compensation (UC) benefits, which are held by banks and financial institutions as a result of suspicious and/or potentially fraudulent activity.

- Required states to include recovery strategies, such as working directly with financial institutions and/or law enforcement agencies to recover UC funds held by banks and financial institutions, in their Integrity Action Plans as part of the annual State Quality Service Plan process.

- At the request of the Department of Justice (DOJ), the Office of Inspector General (OIG) developed a form for states to complete to compile a list of state contacts for forfeiture/seizure efforts and gather insight into state practices in this area. ETA facilitated state responses to this request and provided the responses to DOJ and the OIG.

- On June 11, 2021, ETA coordinated a call between state Unemployment Insurance (UI) agencies, the OIG, and DOJ to provide states with information on law enforcement's forfeiture and seizure efforts.

- On July 13, 2021, ETA coordinated a call with state UI agencies and National Automated Clearing House Association (Nacha) to discuss the Automated Clearing House network, the Nacha opt-in changes, and to educate states on banking rules and opportunities for engagement with the state's Originating Depository Financial Institution.

- ETA has connected numerous states with banks attempting to return overpaid UC benefits. ETA continues to coordinate with states and banking partners to address overpayment recovery questions and concerns.

The Pandemic and Unemployment Insurance Fraud
By Michele Evermore and Laura Valle Gutierrez
The Century Foundation

Everyone involved in unemployment insurance (UI) policy wants to ensure that no funds fall into the hands of fraudsters. Fraud in the system hurts everyone. Unfortunately, criminals are currently stealing benefits directly from unemployed workers in need through tactics such as bank account hijacking, with the stolen money ending up in the hands of people who use it for nefarious purposes.

Taxpayers into the unemployment system should not be on the hook for payments to fraudsters. But as experience during the pandemic demonstrated, underfunded systems can fail on many fronts due to a confluence of stressors. That is why people who care about the UI program paying the right benefits, to the right people, on time need to come together to find constructive solutions to ensure that the fifty-three states and territories that participate in UI all have systems that can withstand all of the challenges that could arise.

This report will review the purpose, experience, and challenges of the unemployment insurance system during the pandemic, and then will focus specifically on the experience with fraud, offering solutions.

The Purpose of Unemployment Insurance

Unemployment insurance was included in the Social Security Act in 1935. On the heels of the Great Depression, the Roosevelt administration and Congress knew that they needed to address the extreme hardship that involuntary unemployment places on people, families, communities, and the economy. The program was intended not just to help workers who find themselves out of a job through no fault of their own, but also to prevent wider wage erosion by making sure that people have a reasonable amount of time to find a good replacement for their old job. The presence of a robust UI system also means that overall wages are less likely to decline as a result of mass layoffs, as workers will have the time and the means to plan their next steps.

As part of the funding for the program, states tax employers using their “experience rating,” which means that employers are charged at a higher rate if the number of their former workers using the UI system goes up. This particular mechanism was intended to be an additional disincentive to employers laying off workers, but in some cases serves to encourage employers to challenge their former employees’ receipt of benefits.

The program was also intended to provide macroeconomic stimulus during times of economic downturn. This is especially important when considering workers who are left out of UI—it is not just individual workers that suffer as a result of lost jobs, others in their community suffer from their inability to spend on necessities. In a way, people who have never lost their job should still be thankful for the UI program, and it may have preserved their jobs. That is, because every dollar spent generates far more than a dollar of local economic activity, UI programs help keep the rest of the community employed. This fact has huge equity implications, because when certain communities, such as communities of color, have a greater challenge in accessing benefits, these barriers keep that community from benefiting from that multiplier effect. In fact, job loss in a community when claimants cannot access a safety net causes that economic pain to spread.

Finally, the program keeps workers attached to the workforce by requiring that, in order to receive benefits, claimants are able to work, available for work, and actively seeking employment. An individual's connection to UI benefits also facilitates connection to employment services and re-employment and retraining opportunities.

It is important to highlight what unemployment insurance is intended to do at the start of any conversation that could lead to change in the system. The UI program has served as an important check on economic downturns for nearly a century, and losing sight of the key functions it performs could jeopardize it. Program integrity includes fighting fraud, but it also means being able to pay the right benefits to the right people on time.

Pandemic Successes and Challenges

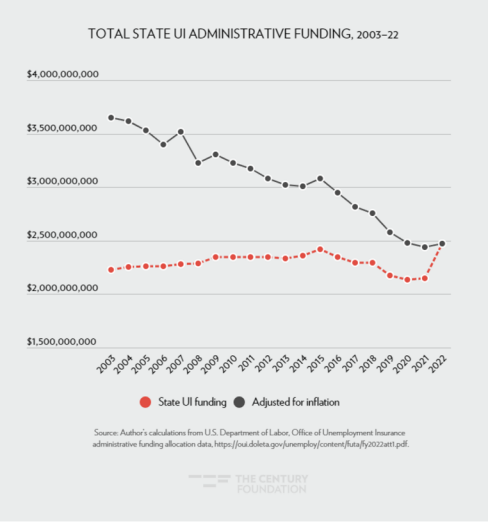
The headline story of the pandemic is that unemployment insurance did a lot of heavy lifting and a lot of good. More than 53 million people were able to access $870 billion in benefits. This resulted in an astoundingly V-shaped recovery. As these payments made their way through the economy, the unemployment rate declined from 14.7 percent in April to 13.3 percent in May and 11.1 percent in June of 2020. With all of the chaos surrounding a once-in-a-century global pandemic, recovery efforts kept the economic pain caused by the massive widespread shutdowns from infecting the entire economy.

However, without significant resources and attention, the nation's unemployment system will not be able to sustain this level of positive impact. The system began 2020 with a fifty-year low in administrative funding, at which point states were expected not only to handle completely unprecedented claim filing, but also to create three entirely new programs in a matter of

weeks. That low administrative funding meant that states had to kick-start programs on the cheap, with too few staff and using outdated technology—while simultaneously establishing their own pandemic work-from-home protocols.

In 2020, federal UI administrative funding flowing to the states amounted to $2.14 billion. Twenty years earlier, in 2000, that same funding was $2.2 billion, not adjusted for inflation (see Figure 1). Taking into account inflation and population growth, states were asked to do a great deal more work with already greatly diminished resources. Similarly, insufficient resources were provided for federal staff to support the Office of Unemployment Insurance, the group tasked with doing a tremendous amount of guidance, enforcement, assistance, and problem solving during the pandemic. The enacted levels of funding for program administration in the area of workforce security, which funds UI program staff in the U.S. Department of Labor's national and regional offices, declined significantly, from a level of 419 full time positions in FY 2006 to only 168 in FY 2021.

FIGURE 1.



These underresourced state systems were overwhelmed by historic challenges during the start of the pandemic. The spike in new claims was unimaginable. Previously, the highest level of new claims on record was 695,000, in October of 1982. While the first week in March 2020 saw only 211,000 initial claims filed, by the last week in March, the number of new claims filed had

soared to an astounding 6.6 million. When Congress and the administration added three entirely new programs on March 27, the Department of Labor had guidance out within days. In response, states had the brand new, very complicated Pandemic Unemployment Assistance program up and running within thirty-eight days on average. However, due to program complexity, questions came up and the federal government issued clarifying guidance several times throughout the course of the program. There were bound to be mistakes.

It is understandable why the federal government made such a rapid and robust pandemic intervention. Entering into the pandemic, states had cut their systems so dramatically that they did not provide (1) enough benefits to (2) enough of the unemployed population for (3) a long enough period of time for the program to counter a recession. So the three programs that Congress passed dealt with each of these three problems. Federal Pandemic Unemployment Compensation (FPUC) added $600 per week to worker benefits to approximate 100 percent income replacement. Due to technical constraints, programming a 100 percent replacement was impossible, so FPUC was the difference between the national average weekly wage and the average weekly benefit amount. Pandemic Unemployment Assistance (PUA) was modeled on Disaster Unemployment Assistance (DUA) to cover the workers who were left out of regular UI coverage. Pandemic Emergency Unemployment Compensation (PEUC) solved the duration problem by adding additional weeks of benefits. Over the course of the programs, Congress amended these programs twice. First, additional requirements were added at the end of 2020, mostly aimed at preventing fraud, but also allowing states to waive overpayments in the PUA program if the claimant was not at fault and recovery of those overpayments would go against equity and good conscience.

While the federal intervention was successful in rescuing workers and the economy, it wouldn't have been necessary if regular state UI programs paid the right people the right amount long enough for them to find suitable replacement work. This is why we need to reform the regular UI program so states cannot game the system and skimp on the regular program only to be topped up federally during a crisis. If there were adequate systems in place during the pandemic, and no chaos from having to set up new programs quickly, the opportunity for fraudsters would have been more limited.

When the economy is doing well, policymakers tend to ignore UI, and yet still expect it to go from zero to sixty without any gas in the tank once a downturn hits. But UI is incredibly complex, with so many differences in state programs that the U.S. Department of Labor publishes a book every year comparing the points in state laws that are at all comparable. Every aspect of determining eligibility is complex and different from state to state. These decisions, per the Social Security Act section 303(a), are supposed to be made by qualified state merit

staff—in fact, this is the very first listed requirement of a qualified state UI agency. During the pandemic, however, this requirement was waived to allow a surge in staffing, and since then, state workers have repeatedly given testimony that these new surge staff, at best, took the time of more seasoned staff to get up to speed, and at worst, made mistakes that took additional time to correct. This is not the workers' fault. But the reason that staff are supposed to be merit staff is that, in order to perform such an important, complex, and stressful job, qualified workers need extensive training and support.

Fraud Spiked during the Pandemic

Prior to the pandemic, fraud was a small fraction of improper payments. The criminals that found their way into UI applications starting in May 2020 did not, by and large, hack UI systems, but rather took advantage of the pandemic chaos to try various means to impersonate legal claimants. As it turns out, UI fraud is a whole-of-society problem for which there must be a whole-of-government partnership with private industry to solve. The good news is that this is happening. There are regular government wide collaboration efforts on this. Positive collaboration will be necessary to stop the criminals stealing a sorely needed benefit from workers.

During the pandemic, the massive differences between state systems was a boon to fraudsters, who would apply again and again for benefits—usually failing, but sometimes succeeding—and then simply move their operations to another state as soon as the first figured out how to block them. The solutions to fraudulent applications, however, were less portable because every system is so incredibly different. So the fraudsters had fifty-three chances to employ various tactics before they would have to evolve. Because states immediately started cooperating, with the help of the National Association of State Workforce Agencies (NASWA) and informal collaborations, state tactics to combat fraud evolved more quickly than if they had continued operating in isolation. Prior to the pandemic, not all states engaged with NASWA's Integrity Center, but now all of them engage with at least some of its functions. Prior to the pandemic, ID verification was not a typical function of UI systems, because states would check with a person's former employer to find out why a person became unemployed. However, because PUA covered self-employed workers and others without an employer to cross-check, fraudsters took advantage of that fact early in the pandemic. The person who just laid a worker off has to confirm that person should get a benefit, in an experience-rated system where successful UI applications raise employer taxes. However, on December 27, 2020 the Continued Assistance Act was signed into law adding verification of employment requirements and ID verification.

Another boon to fraudsters was the fact that these underfunded systems had to deal with this influx of claims while setting up new programs, so by the time a state was making a first payment, it was often worth many months of benefits all paid out in a lump sum. Ordinarily, claimants can expect to receive a first payment within two or three weeks, so if the state accidentally makes an initial payment to an individual later determined to be a fraudster, it would only have made a couple of weeks of payment. So part of the reason there are such large numbers involved is that a single mistake could mean months of benefits paid rather than weeks.

What Is Unemployment Fraud?

It is easy to confuse all of the numbers around improper UI payment and fraud. The improper payment rate in UI has historically been relatively high, hovering around 10–13 percent of benefits paid in the decade before the pandemic. **Improper payment is mostly non-fraud and includes underpayments as well as non-fraud overpayments.** Fraud, while defined slightly differently between states, generally involves an individual or entity knowingly providing misinformation to obtain a benefit. That could mean a worker lying about the reason they lost work or falsifying income in order to receive a higher benefit, or even organized crime impersonating people to get a benefit. In the pandemic, that is what fraud looked like.

Fraud is complicated and evolving. While at the start of the pandemic, it involved criminal rings using identities stolen in major private sector data breaches such as the Equifax data breach to apply for benefits in PUA before ID verification and proof of income checks were put into place, interventions needed to continually evolve in response to new fraud techniques. One key security feature in the regular UI program, and the reason ID verification was never necessary before the pandemic, is that agencies check with the employer that just laid a worker off to make sure that their stories match and that a person separated for qualifying reasons. So, fraudsters started setting up false employers to avoid that check. When systems got sophisticated enough to detect false employers, the fraudsters started stealing checks from actual unemployed people by sending texts to them that said that there was an issue with their benefits and they needed to provide all of their information, and then sending them to a fraudster portal. Then, the fraudster would use the captured information to log in to the claimant's actual UI account and change the bank account information. That is why the Department of Labor and NASWA partnered with the financial services industry to give states a way to see if the new bank account actually belongs to the claimant when a bank account is changed.

The bottom line here is that fraud is complicated. A single solution is never going to be enough. The UI program needs more and better resources to build sophisticated, secure systems. It also needs all hands on deck to understand this nuance. No one will be able to prevent fraud in this key economic stabilizer if the first instinct is partisan finger pointing.

What Comprises the Improper Payment Rate?

Improper payments are mostly mistakes. The top two reasons that people usually are paid improperly is because workers accidentally misreport income, or make mistakes in their work search activity or reporting. A huge contributor to the first factor is that workers often confuse earning money and getting paid. They do not report the correct date when they start working again, because they have not been paid yet. One remedy for this would be to change the UI program so that people can continue receiving benefits during their first week or two of work. That typically is a difficult time for workers—returning to work after an unemployment spell can be costly, with new transportation costs, clothing and uniforms, obtaining child care, and other transition costs. Also, since it may be a long time before a worker entering a new job is paid, typically up to three weeks, such a delay in a paycheck could interfere with paying rent on time, or other payments, as **64 percent** of families that live paycheck to paycheck. Allowing a worker to collect benefits as they transition to their new job would make things better for workers and avoid confusion in unemployment insurance.

Work search errors are the result of a confluence of issues. State work search requirements vary widely. Some requirements are qualitative, others are quantitative. Some states require claimants to list work searches on continued claims forms, and some merely require that a claimant keep a log on their own. That means that when their claim is reviewed, they might not have good information about past work search. At the start of the pandemic, Congress rightly passed legislation encouraging states to suspend work search requirements during the workplace shutdown. So when states restarted the requirements after the shutdown, claimants had legitimate confusion about what their responsibilities were. A good solution to this would be to standardize work search requirements across states, modernizing work search requirements to make sure they encompass the way modern claimants look for work, clarifying expectations, and creating a simpler reporting system to make sure that claimants are meeting expectations.

Another reason for improper UI payments is systemic errors. The pandemic added all new layers of complexity to UI administration, and that led to mistakes. The new PUA program got up and running quickly, to states' enormous credit. In so doing, however, questions arose that states tried to answer for themselves. Furthermore, over the course of the pandemic, the law governing PUA changed twice, which may have contributed to some confusion. In December

2020, it changed dramatically by adding new ID verification requirements, proof of employment requirements, and gave states the ability to waive some overpayments if the claimant was not at fault. As new questions came up, the Department of Labor issued "changes" or updates to its PUA guidance several times. When the Biden administration took office, it also added qualifying factors to PUA so workers could refuse unsafe work and some workers left out of the program could be included.

Some of the systemic errors during the pandemic were understandable. For example, early in the pandemic, some states asked claimants if they had one of the COVID-related qualifying reasons to collect UI, but did not ask that question every week. They found out later in the year that they were supposed to ask that question every week, and so they had to go back to claimants—many of whom had already stopped getting benefits—for their weekly COVID-related reason. If they did not get a response, that would be considered an improper payment. Some states made a mistake and paid the minimum DUA amount instead of the minimum PUA amount, which could be a few dollars per week difference, but is nevertheless an improper payment. Similarly, some states established a weekly benefit amount based on gross rather than net income, or put claimants into PUA instead of UI because the agency did not have a wage record and the minimum PUA amount was a few dollars more than they would be eligible for in UI. Again, these circumstances could amount to a few dollars per week due to innocent mistakes, but count as an improper payment.

Ensuring Balance and Equity

Fraud prevention should not be at odds with equitable access to benefits. Whatever fraud solutions are employed need to be evaluated to ensure that they are not blocking access to innocent claimants who lost work through no fault of their own. States and vendors need to make a more concerted effort to be sure that their solutions are not disproportionately blocking access for people of color or sweeping up innocent workers as suspicious through algorithms that pull data that could be biased. Due in part to an imbalance in fraud focus, erroneous denials doubled in the ten years just prior to the pandemic. In addition, workers of color have historically been more likely to be flagged for fraud. For example in Wisconsin, prior to the pandemic, more than 70 percent of claimants facing charges of fraud were Black, when the Black population in the state is one-tenth that, or about 7 percent. Better fraud detection should mean a closer review of flags. A strike team in another state found that the fraud flags that were in place before the review were only catching people making innocent mistakes, and not the criminal enterprises attacking the system, so the state improved its flagging system and prevented more fraud going forward.

The Numbers

The General Accountability Office recently issued a helpful report that goes into great detail analyzing various estimates of funds that were paid to fraudsters during the pandemic. The report lays out the pros and cons of using each methodology for estimating fraud. The reason we do not have absolute numbers is a confluence of factors. The biggest is that states are still digging out from the unprecedented workload laid out above. Combine that with due process rights, and the fact that appeals systems are also underwater, and it is clear how the same pressures that made it hard for systems to pay benefits early on continue to plague other efforts to get the right benefits to the right people at the right time.

The amount of fraud and other overpayments that have been recovered is a reliable and valuable number. The government has recovered nearly $1.4 billion in PUA overpayments both in fraud and non-fraud overpayments. On top of that, government recovery efforts have recovered over $980 million in fraud and more than $3.4 billion in non-fraud overpayments.[1]

Another useful number is to consider how much fraud has been prevented. The Connecticut Department of Labor claims they have prevented $3 billion in fraudulent payments. Vendors report some numbers—for example identity vendor ID.me estimates that their identity solution has prevented $240 billion in fraudulent payments. However, these numbers are also, at best, guesses. The use of these products, login.gov, the NASWA's IDH, various cross-matching services, interagency collaboration, state-built solutions, and other interventions have also deterred fraudsters from targeting particular states, and the number of fraudsters discouraged from attempting to apply is difficult to measure.

The Solutions

Just as the numbers are more complicated that they seem, so too are the solutions. Successful fraudsters are sophisticated criminals with a multitude of evolving tactics. If anyone says they have a single simple solution to fraud, they are either misinformed or not being truthful. The solutions need to be multi-pronged, agile, and improve over time. States need to band together and learn from one another. NASWA's efforts on this front have, especially when the fraud first emerged in 2020 helped states to learn from each other in new ways.

The first and most important step is appropriate administrative funding. The good news is that President Biden requested appropriate increases in administrative funding. While not fully meeting those requests, Congress has improved its allocation to UI administration for the past

[1] Author communication with the House Ways and Means Committee.

two years which is a beginning step in the right direction. Aside from absolute sums, we need to do more to recognize the cost of technology. Right now, states do not have the right funding to be able to set aside what is needed for the kinds of continual technological improvements that really should be made every year. Without the means to keep updating systems, states are left to compete to procure services from a limited number of vendors when there is an economic emergency. This is not an ideal situation to maintain system integrity. For example, ID verification is a new cost for states since the start of the pandemic, but Congress did not fully fund the administration's request to pay for subscriptions to these services.

A full list of actions the Department of Labor has taken is attached. The steps include dramatic interagency collaboration. The commitment to stop fraud extends to the highest levels of government. That is why many of the items on the list speak to interagency working groups, information sharing, and partnership with NASWA on integrity efforts. At the start of the pandemic, a number of states did not participate with the Identity Center, but now all of them have at least some involvement. The Department of Labor worked with NASWA to add key functions to address evolving threats such as Bank Account Validation (BAV), a prisoner database crossmatch, and the Behavioral Insights toolkit.

A huge component of the work is centrally provided technical assistance. Fifty-three states and territories need to be able to learn from each other. One of the key elements of this effort has been to establish a Central Response Division within the Office of Unemployment Insurance and deploy "Tiger Teams" to states to dig deeply into their systems. These teams dig deeply into state systems and provide customized recommendations to make sure that they are employing all of the most sophisticated and comprehensive solutions to fight fraud, promote equity, and speed timely decisions. A summary of the kinds of fraud solutions that they have recommended is available on the Employment and Training Administration's website. The Department of Labor allocated $200 million to states to implement these recommendations, and thirty states have already engaged with these teams. Another major intervention is simply providing states with direct funding to implement fraud solutions. Across the past administration and the current one, the department allocated $440 million to states for these purposes.

Ultimately, efforts must overlap. Fighting fraud cannot happen in a vacuum. If states are not able to process regular benefits efficiently, that creates opportunities for fraudsters. Without equity measures that ensure that all claimants understand the system and can apply for benefits without making mistakes, systems will have to spend time clearing innocent people making honest errors rather than pursuing actual wrongdoers. Stable systems that pay reliable benefits and that can withstand major potential stresses will require an all-hands-on-deck approach, which requires bipartisan cooperation and strong state/federal partnerships.

United States House of Representatives
Committee on Ways and Means
Hearing titled: The Greatest Theft of Taxpayer Dollars: Unchecked Unemployment Fraud

Submitted Written Statement
Social Security Administration
Inspector General Gail S. Ennis
February 8, 2023

Mr. Chairman, Ranking Member Neal, and Members of the Committee I appreciate the opportunity to submit a written statement for consideration by the Committee for inclusion in the printed record of the hearing.

The emergence of the COVID-19 pandemic created unprecedented challenges for many federal agencies. It also resulted in criminals finding ways to fraudulently take advantage of the infusion of trillions of dollars in federal funding, which is critical to helping workers in need.

The Social Security Administration (SSA) Office of the Inspector General (OIG) plays a key role in combating Social Security number misuse and safeguarding these essential federal funds. Social Security misuse, including identity theft, is a common thread running through a substantial number of investigations related to pandemic relief funds. SSA OIG is authorized to investigate any situation in which a person misuses a Social Security number, including obtaining a loan or applying for a government benefit.

Since the start of the pandemic, SSA OIG has been working with federal, state, and local law enforcement entities on joint investigations to pursue SSN misuse and other crimes involving the misappropriation of federal pandemic relief funds. These include fraud schemes pertaining to Unemployment Insurance (UI) benefits and Paycheck Protection Program fraud.

The first relief bill, the Coronavirus Preparedness and Response Supplemental Appropriations Act, 2020 (Public Law No: 116-123) became law on March 6, 2020. Almost immediately, criminals began abusing federal programs enacted with the intent to assist those harmed by the pandemic. On February 26, 2021, the U.S. Department of Justice's National Unemployment Insurance Fraud Task Force issued an alert to warn of criminals using stolen identities to file fraudulent unemployment insurance claims to exploit benefits related to COVID-19 relief.

On January 30, 2023, the Pandemic Response Accountability Committee (PRAC) issued a Fraud Alert titled: PRAC Identifies $5.4 Billion in Potentially Fraudulent Pandemic Loans Obtained Using Over 69,000 Questionable Social Security Numbers. This demonstrates the widespread use of questionable SSNs to obtain federal funds from the Small Business Administration's (SBA) COVID-19 Economic Injury Disaster Loan (COVID-19 EIDL) program and Paycheck Protection Program (PPP).

The Social Security number is a financial lifeline to government benefits, including pandemic relief programs. Victims of Social Security number misuse face significant harm when scammers obtain benefits in their name: victims may be unable to rightfully receive critical benefits, or they may be left to deal with the ramifications of damaged credit and other issues.

Though SSA OIG has a critical role in combatting COVID-19 pandemic fraud, SSA OIG has never received dedicated funding related to pandemic oversight. Nonetheless, SSA OIG continues to make data-driven decisions to prioritize these workloads. Federal law enforcement agencies count on SSA OIG to assist in investigations related to the misuse of federal pandemic relief funds.

Since the start of the pandemic, SSA OIG has participated in 159 investigations related to COVID-19 pandemic relief programs, funds, and scams and issued nearly a dozen COVID-19-related audits. SSA OIG has participated in 25 COVID-19 fraud workgroups or taskforces.

While it will take time to fully understand the extent of the fraud that has occurred, the U.S. Department of Labor estimates that at least $163 billion of $873 billion in pandemic unemployment spending was improperly spent, attributing a significant portion to fraud. As part of the National Unemployment Insurance Fraud Task Force, we are working with the U.S. Secret Service (USSS), U.S. Department of Labor (DOL) OIG, Federal Bureau of Investigation (FBI), Homeland Security Investigations (HSI), Internal Revenue Service (IRS) Criminal Investigation, U.S. Postal Inspection Service (USPIS), and Department of Homeland Security OIG, in coordination with U.S. Department of Justice, to investigate fraud schemes targeting the UI programs of state workforce agencies. Working in partnership with agencies across federal and state governments improves collaboration, information sharing, and analysis which has protected critical taxpayer dollars.

I want to highlight four of the many investigations related to Pandemic Unemployment Assistance (PUA) program which the SSA OIG Office of Investigation conducted jointly with other law enforcement partners.

On December 30, 2022, Andrice Vanec Sainvil, 20, of Margate, Florida, pleaded guilty and was sentenced to two years in prison for his role in a CARES Act fraud scheme. Sainvil conspired with others to steal the identities of dozens of Oklahomans, use their victims' names and social security numbers to apply for fraudulent UI benefits with the Oklahoma Employment Security Commission ("OESC"), and cause OESC to mail prepaid debit cards containing those fraudulently obtained UI benefits to addresses to which the coconspirators had access throughout the Western District of Oklahoma. The indictment further alleges that Sainvil and others then retrieved those prepaid debit cards and used them to withdraw thousands of dollars in cash from ATMs throughout Oklahoma City and elsewhere. Sainvil pleaded guilty to count three of a six-count indictment against him and admitted that he personally possessed four of those fraudulently obtained UI benefit debit cards, withdrawing more than $1,000 in cash from three of them. Sainvil was then sentenced to two years in prison, to be followed by three years of supervised release. He was further ordered to pay $26,699.80 in restitution to OESC, and to forfeit the $2,658 in proceeds he obtained as a result of the scheme.

On November 20, 2022, Chrystal Miesha Slaughter (Thompson), 34, was sentenced in U.S. District Court in Jackson. Slaughter was ordered to pay $205,262.89 in restitution to the victims in this case. According to court documents and statements made in court, Slaughter used the personal identifying information of her victims to obtain loans from various banks, acquire lines of credit, purchase a luxury vehicle, and finance trips to locations such as South Beach, Florida. While on pretrial release after being indicted by a federal grand jury on eight counts for committing these offenses, Slaughter fraudulently applied for unemployment insurance benefits from the State of Mississippi and the State of Georgia. Slaughter was fraudulently claiming Mississippi and Georgia unemployment insurance benefits simultaneously.

On April 7, 2022, Marietta Ravnaas, 52, was sentenced to two years of probation, restitution in the amount of $8,200 to Commonwealth of Massachusetts, Department of Unemployment Assistance, and restitution in the amount of $12,100 to Washington State. The conviction stemmed from incidents beginning on or about May 20, 2020, and continuing through November 18, 2020, when Ravnaas knowingly participated in a wire fraud scheme to fraudulently obtain CARES Act unemployment benefits. On multiple occasions Ravnaas knowingly allowed the fraudulently obtained unemployment benefits payments to be deposited into her bank account. Ravnaas frequently transferred the funds to other participants using WorldRemit, an international money transfer service. Ravnaas received items in the mail that pertained to fraudulent unemployment benefits, including a fraudulent check from the State of New York and a fraudulently obtained debit card from the State of Michigan. Ravnaas conducted financial transactions using WorldRemit, knowing that the financial transactions were designed in whole or in part to conceal or disguise the nature, location, source, ownership, or control of the proceeds of the wire fraud scheme.

On October 28, 2021, Nelson Fornah, 35, was charged by State of Pennsylvania Attorney General Josh Shapiro for stealing the personal identifying information of several intellectually disabled people in his care to fraudulently apply for and receive nearly $90,000 in PUA funding. Fornah a caregiver from Darby, Pa., used the stolen and false information of seven disabled clients in his care across Delaware and Montgomery Counties to apply for and receive a total of $89,418.82 in PUA benefits. Beginning in July 2020, Fornah created phony email addresses for the victims of his scheme, the phone numbers on each application were his own. When he obtained the loaded U.S. Bank cards, the accounts were quickly depleted through multiple ATM withdrawals and purchases at various locations. In addition, Fornah also fraudulently applied for and was denied PUA benefits using his own information even though records confirm he remained fully employed prior to and through the pandemic. Following this rejection by the PA L&I, he lied about his employment status to apply for the standard PA unemployment compensation benefits and received more than $14,000 as a result. Fornah also attempted to use his clients' stolen personal identifying information to apply for unemployment benefits from the State of New Jersey.

These are only four examples of the numerous cases SSA OIG conducted jointly with our law enforcement partners. I believe it is essential for the Committee on Ways and Means to examine these issues and the work that federal agencies have performed to address the misuse of federal funding in response to the COVID-19 pandemic. OIG offices need the support of the U.S. Congress to more effectively address pandemic-related fraud and continue to work to recover stolen federal funds. Further, U.S. Congress highlighting the use of illegal fund helps put scammers on notice that federal agencies will continue to investigate and prosecute individuals who have illegally obtained federal funds.

Our goal is to hold accountable individuals who defrauded pandemic programs and stole critical pandemic relief funding from businesses and individuals facing economic impacts of the pandemic. SSA OIG employees continue to work tirelessly to provide essential oversight and to work collaboratively with other federal agencies and law enforcement partners to combat fraud and improper payments related to pandemic relief programs and funds.

