

# 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**



## 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.

## TABLE OF CONTENTS

INSPECTOR GENERAL’S REPORT .....	1
RESULTS .....	3
IN 6 MONTHS, 4 STATES PAID 42.4 PERCENT OF UI BENEFITS IMPROPERLY, INCLUDING NEARLY 14 PERCENT PAID TO LIKELY FRAUDSTERS.....	4
MORE THAN 6 MILLION AMERICANS WAITED AT LEAST A MONTH FOR PANDEMIC-RELATED UI BENEFITS .....	21
OIG’S RECOMMENDATIONS.....	26
SUMMARY OF ETA’S RESPONSE .....	26
EXHIBIT 1: FUNDING FOR THREE NEW KEY PANDEMIC-RELATED UI PROGRAMS, AS OF 3/14/20 .....	28
EXHIBIT 2: COSTS PAID TO LIKELY FRAUDSTERS OR IDENTITY FRAUD CASES.....	29
EXHIBIT 3: TIMELINESS REPORTING BY STATE .....	30
APPENDIX A: SCOPE, METHODOLOGY, & CRITERIA.....	32
APPENDIX B: AGENCY’S RESPONSE TO THE REPORT .....	36
APPENDIX C: ACKNOWLEDGMENTS.....	56



## INSPECTOR GENERAL'S REPORT

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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<sup>1</sup> that identified concerns about state preparedness. In our May 2021 CARES Act UI audit,<sup>2</sup> 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.

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<sup>1</sup> 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>

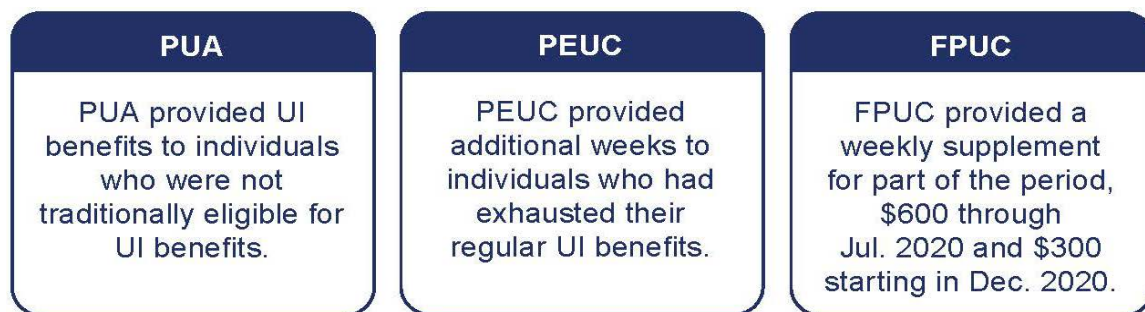
<sup>2</sup> COVID-19: States Struggled to Implement Cares Act Unemployment Insurance Programs, Report No. 19-21-004-03-315 (May 28, 2021), <https://www.oig.dol.gov/public/reports/oa/2021/19-21-004-03-315.pdf>

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,<sup>3</sup> 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

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<sup>3</sup> 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<sup>4</sup> 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<sup>5</sup> (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

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<sup>4</sup> The 50 states, the District of Columbia, the U.S. Virgin Islands, and Puerto Rico have SWAs that administer UI programs.

<sup>5</sup> 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.<sup>6</sup>

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.

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IN 6 MONTHS, 4 STATES PAID  
42.4 PERCENT OF UI BENEFITS  
IMPROPERLY, INCLUDING NEARLY  
14 PERCENT PAID TO LIKELY FRAUDSTERS

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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

#### WHAT IS AN IMPROPER PAYMENT?

A payment is improper if it should not have been made or was to the wrong recipient.

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Examples include overpayments and underpayments.

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An improper payment can be unintentional or intentional.

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Intentional improper payments are more commonly referred to as financial fraud.

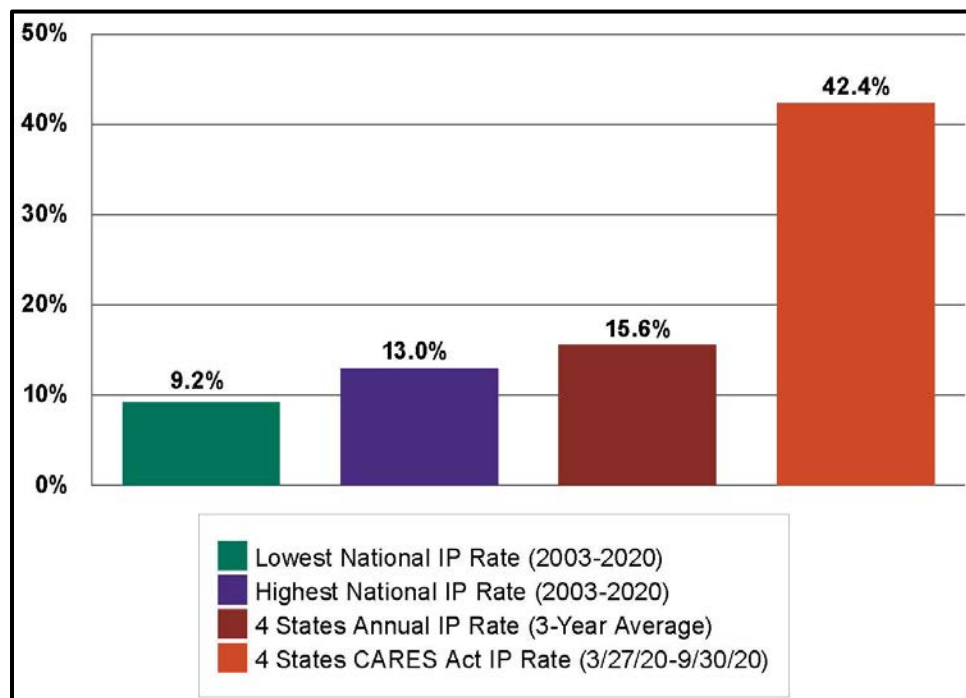
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<sup>6</sup> Based on data submitted by states in response to an IG subpoena: from March 28, 2020, to September 30, 2020, 4 states submitted claims data for 9,546,807 claimants and \$71,663,117,052 in benefits for the PUA and FPUC programs. A stratified 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<sup>7</sup> 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**

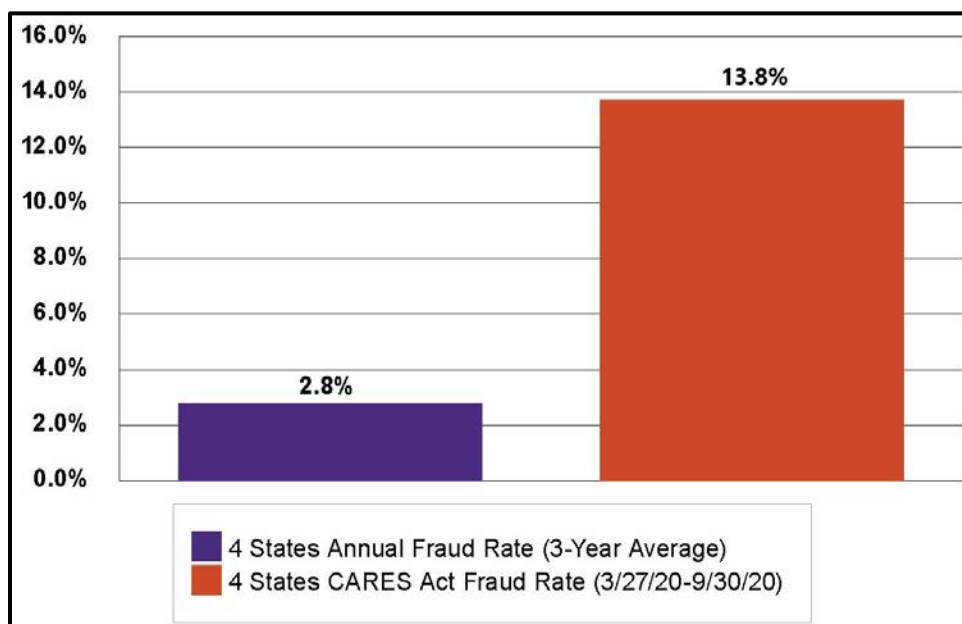


Source: ETA reports and OIG analysis of case files

<sup>7</sup> 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.<sup>8</sup> 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

<sup>8</sup> 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<sup>9</sup> 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

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<sup>9</sup> 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.<sup>10</sup> 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<sup>11</sup> 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,<sup>12</sup>
- 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<sup>13</sup> 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,

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<sup>10</sup> 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>.

<sup>11</sup> 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.

<sup>12</sup> 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.

<sup>13</sup> 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,<sup>14</sup> 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.

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<sup>14</sup> 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<sup>15</sup> 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<sup>16</sup> 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.

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<sup>15</sup> Flagged claimants are those that were indicated by the OIG's Office of Investigations as potentially fraudulent.

<sup>16</sup> 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<sup>17</sup> 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

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<sup>17</sup> 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<sup>18</sup> 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.<sup>19</sup> 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*

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<sup>18</sup> 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>.

<sup>19</sup> 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.<sup>20</sup> 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,<sup>21</sup> 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

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<sup>20</sup> 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>

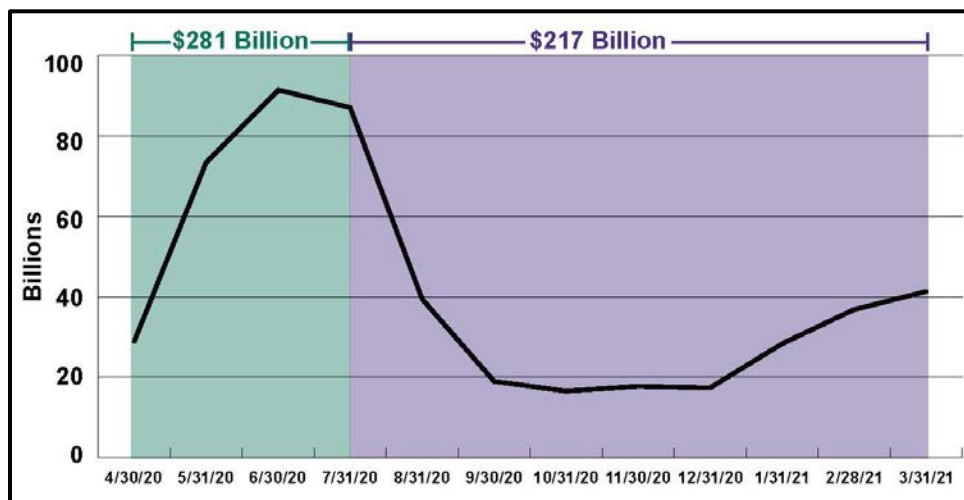
<sup>21</sup> Semiannual Report to Congress, Volume 87, October 1, 2021 – March 31, 2021, <https://www.oig.dol.gov/public/semiannuals/87.pdf>

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.<sup>22</sup> We advised ETA that the OIG interprets the CARES Act as requiring individuals to submit documentation to substantiate employment.<sup>23</sup> However, ETA disagreed with our assessment based on their interpretation of the CARES Act and underlying regulations.

In October 2020, we further reported<sup>24</sup> 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

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<sup>22</sup> 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>

<sup>23</sup> 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.

<sup>24</sup> 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,<sup>25</sup> 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

<sup>25</sup> "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<sup>26</sup> 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

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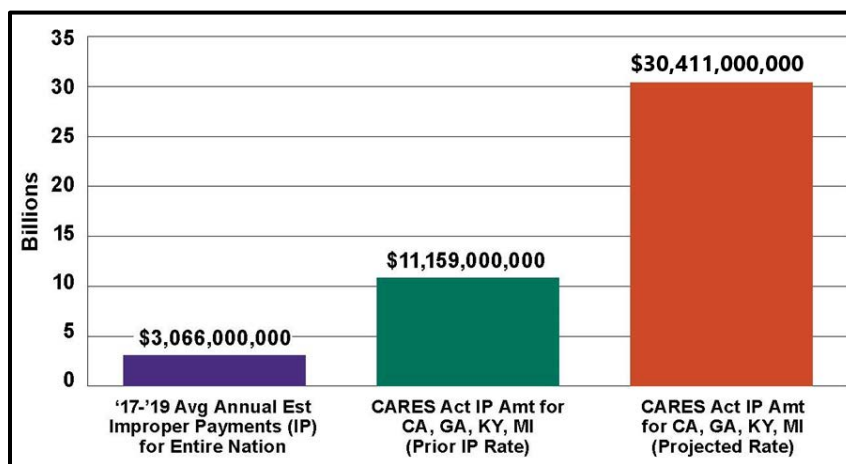
<sup>26</sup> Alert Memorandum: The Employment and Training Administration Needs to Ensure State Workforce Agencies Implement Effective Unemployment Insurance Program Fraud Controls for High Risk Areas, Report No. 19-21-002-03-315 (February 22, 2021), <https://www.oig.dol.gov/public/reports/oa/2021/19-21-002-03-315.pdf>; 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.<sup>27</sup> Further, ETA reported<sup>28</sup> 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

<sup>27</sup> 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.

<sup>28</sup> 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.dola.gov/unemploy/docs/cares\\_act\\_funding\\_state.html](https://oui.dola.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%	3 <sup>rd</sup>	2.1%	7 <sup>th</sup>	2.0%	13 <sup>th</sup>	0.5%	21 <sup>st</sup>
CA	8.9%	8 <sup>th</sup>	1.5%	4 <sup>th</sup>	1.4%	8 <sup>th</sup>	2.2%	41 <sup>st</sup>
GA	12.9%	18 <sup>th</sup>	3.8%	21 <sup>st</sup>	6.3%	32 <sup>nd</sup>	0.7%	27 <sup>th</sup>
MI	16.0%	29 <sup>th</sup>	8.6%	45 <sup>th</sup>	5.2%	27 <sup>th</sup>	0.5%	22 <sup>nd</sup>

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.

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MORE THAN 6 MILLION AMERICANS  
WAITED AT LEAST A MONTH FOR  
PANDEMIC-RELATED UI BENEFITS

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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.<sup>29</sup> 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.<sup>30</sup> 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

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<sup>29</sup> OMB Memorandum 20-21, Implementation Guidance for Supplemental Funding Provided in Response to the Coronavirus Disease 2019 (April 10, 2020).

<sup>30</sup> ETA requires states to pay 87 percent of claimants in 14 or 21 days after the first compensable week depending if there is a 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 WORSENE**

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)**

<b>State</b>	<b>Total Claimants</b>	<b>Claimants Paid Timely</b>	<b>Percentage Paid Timely</b>
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%

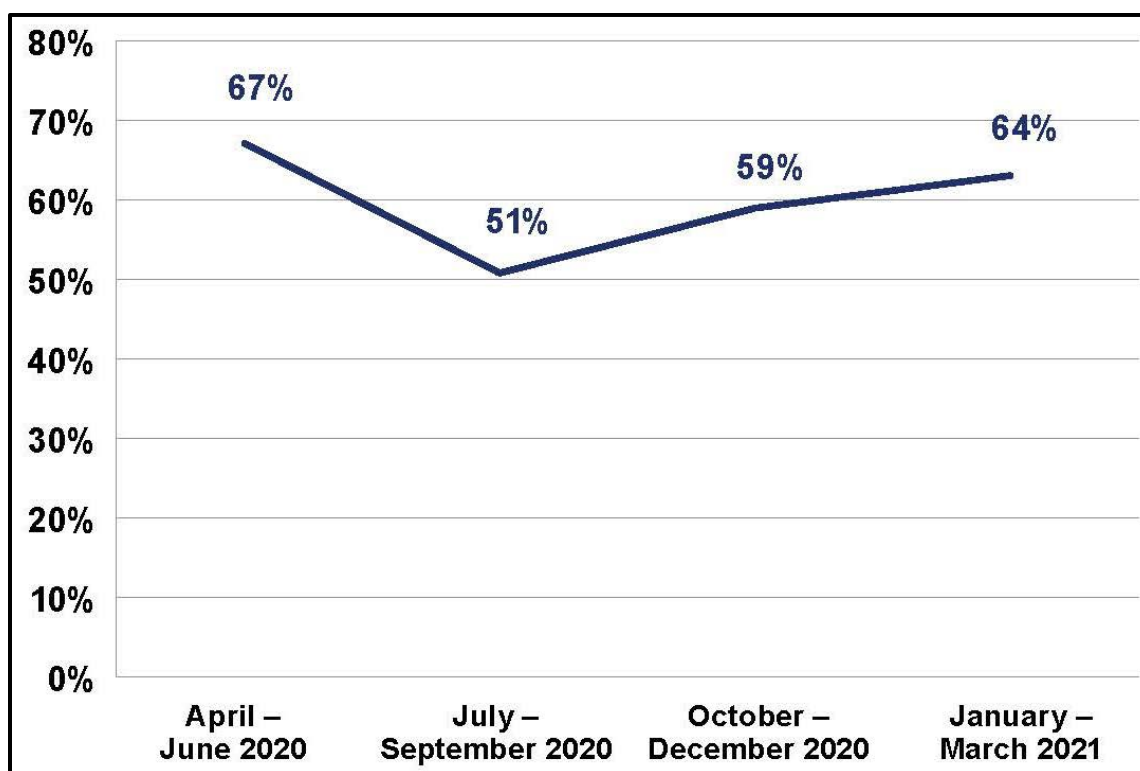
Source: OIG analysis of information collected during the audit

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.<sup>31</sup>

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<sup>32</sup> 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

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<sup>31</sup> DOL did not track initial claims for PEUC since claimants were not required to file a separate application.

<sup>32</sup> 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<sup>33</sup> 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.

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## SUMMARY OF ETA'S RESPONSE

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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

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<sup>33</sup> 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**

<b>Pandemic-Related UI Program</b>	<b>Funds Drawn Down Total</b>	<b>Funds Drawn Down in the 4 States</b>
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
<b>TOTALS</b>	<b>\$472,164,616,132</b>	<b>\$133,929,944,250</b>

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
<b>Total</b>	<b>\$7,092,604</b>

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 Michigan.

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,<sup>1</sup> and OIG reports issued on August 7, 2020,<sup>2</sup> and on May 28, 2021.<sup>3</sup> 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

<sup>1</sup> 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.

<sup>2</sup> COVID-19: More Can Be Done to Mitigate Risk to Unemployment Compensation Under the CARES Act, Report No. 19-20-008-03-315.

<sup>3</sup> 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.<sup>4</sup> 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.<sup>5</sup> 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

<sup>4</sup> 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.

<sup>5</sup> 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.<sup>6</sup> 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

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<sup>6</sup> 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](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](http://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*, issued 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.

II-I

**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.

III-1



**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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