PUA Improper Rate Report

August 21, 2023

The Department of Labor (The Department) is releasing its estimate of improper payments made March 2020 to September 2021 under the temporary Pandemic Unemployment Assistance (PUA) program. Separate from the traditional UI program, the PUA program paid benefits to self-employed individuals and others who were displaced by the pandemic but were not eligible for regular unemployment benefits. PUA was a critical part of enhanced unemployment benefits during the pandemic. These enhanced benefits helped to keep 5 million Americans out of poverty and, according to an analysis by the Federal Reserve Board,[1] provided the most effective dollar-for-dollar stimulus of any program to prevent the public health crisis from causing a lasting recession.

While PUA provided critical support to workers and communities during a historic pandemic, states faced serious challenges in minimizing improper payments and stewarding federal funds in this entirely new program, especially in the first nine months of the pandemic. Since then, the Department has taken vigorous action to strengthen the integrity of unemployment insurance systems, including increased identity verification, improved data sharing, and creating more resilient IT systems. As part of this ongoing commitment to program integrity and in accordance with its responsibilities under the Payment Integrity and Information Act, the Department conducted an exhaustive study to estimate the level of improper payments in the PUA program.[2] The analysis released today will assist the Department's effort to understand the challenges during the pandemic and to inform our efforts to protect and strengthen all unemployment programs going forward.

Context: Chronic underfunding, record claim volume, and exigent policy decisions in 2020 created vulnerabilities across UI programs, especially the PUA program.

In 2020, during the previous administration, state UI systems were overwhelmed by record numbers of claims amidst an unprecedented increase in unemployment triggered by the public health crisis. When Congress created new unemployment programs and enacted laws to expedite the delivery of benefits, many basic program integrity controls designed to prevent improper payments, including fraud, were not built in. This created a perfect storm for the 53

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[1] Christopher Carroll et al. "Welfare and Spending Effects of Consumption Stimulus Policies," Federal Reserve Board of Washington DC, 2023, https://www.federalreserve.gov/econres/feds/files/2023002pap.pdf.administrative records submitted to the Department.

[2] U.S. Department of Labor, "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," Unemployment Insurance Program Letter 16-22, July 14, 2022, UIPL No. 16-22 | U.S. Department of Labor (dol.gov).

state UI systems responsible for delivering both federal and state unemployment benefits—programs that had been neglected for decades and were reliant on outdated technology. The combination of decades of underfunding, record claims volumes, and weaker integrity controls in 2020 resulted in elevated rates of improper payments:

- **Serious underfunding and outdated technology systems limited states' responsiveness and efficiency.** While PUA was distinct from the UI program, its implementation relied on the systems used to deliver unemployment benefits. Going into the pandemic, funding for the administration of the UI system was at the lowest level in more than three decades, which left states with insufficient experienced staff to handle the volume of incoming claims and fraud threats. Moreover, there had been no dedicated funding for technology development or maintenance before the American Rescue Plan. The Governmental Accountability Office (GAO) warned in a series of reports after the Great Recession that only 22 states had modernized their UI systems away from legacy systems by 2019.
- **States were unprepared to put in place the controls needed to prevent fraud during the pandemic:** Audits by the GAO and Pandemic Response Accountability Committee (PRAC)concluded that condition of state UI technologies contributed heavily to the high level of fraud and improper payments in PUA. Because of the design and condition of their technologies and processes, states were unable to implement automated systems and fraud controls during the early months of the pandemic. Given these limitations, states could not pivot and respond effectively to the rapid evolution of fraud threats in 2020.
- **DOL OIG has found that Self-Certification and lack of controls during the "first 9 months" made PUA "extremely susceptible" to improper payments and fraud in 2020:** DOL OIG Larry Turner testified that "the reliance solely on claimant self-certifications without evidence of eligibility and wages during the program's ***first 9 months*** rendered the PUA program extremely susceptible to improper payments, including fraud.[3]""
- **In 2020, the PUA program did not require identity verification or substantiation of employment.** Throughout the first nine months of the program in 2020, PUA allowed for payments to be made based on self-certification of information without any substantiation of employment or self-employment and without a requirement for individuals to verify their identity. To ensure benefits reached individuals and the economy rapidly, Congress significantly limited states' ability to add additional eligibility

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[3] Larry Turner, "Waste, Fraud, and Abuse Go Viral: Inspectors General on Curing the Disease," Testimony before the U.S. House of Representatives Committee on Oversight and Accountability, Subcommittee on Government Operations and the Federal Workforce, March 9, 2023, https://www.oig.dol.gov/public/testimony/03092023.pdf

requirements to the program. At least 60 percent of the total $131 billion paid out from the PUA program occurred in 2020 before these protections were added.

- **PUA was created to serve populations that fall outside of the traditional UI system,** like freelancers and self-employed workers. Because these workers did not earn wages covered by the protections of the regular UI program, their wages were not reported to states. This deprived states of one of the key integrity controls in the state UI system, which is to check new claims against the state's official record of employment, and conduct required follow up communications with that claimant's past employer to confirm eligibility.
- **These structural weaknesses left the PUA program exposed to criminal actors,** especially those who committed identity fraud and initiated an application for PUA using stolen identities to fraudulently receive unemployment payments.
- **In 2020, there were major limitations in data-driven fraud prevention.** The Department funded the creation of the UI Integrity Center[4] prior to the pandemic and later funded the establishment of a UI Integrity Data Hub, which allows states to crossmatch incoming claims against data that indicates there could be suspicions of fraud, including whether claims have been filed in multiple states. However, in 2020, only 34 of the 53 independent state UI systems were using the Integrity Data Hub and many states had yet to take advantage of its capacity to check all incoming claims against suspicious indicators. Similarly, the Department of Labor's Office of Inspector General (DOL-OIG) had to contact each individual state UI agency to get the multi-state data they needed detect and investigate multi-state UI fraud and to conduct audits.

Action Taken: Under the Biden-Harris Administration and starting with enactment of the American Rescue Plan Act in 2021, the Department has taken a more aggressive stance to rectifying policy and administrative weaknesses that led to pandemic fraud.

The Department has recognized many of the policy and implementation challenges that contributed to the high level of overpayments in the PUA program, especially in 2020 at the outset of the pandemic. Since January 2021, the Department has taken a series of actions to learn from these challenges and chart a new course for UI programs, investing in stronger tools for fraud prevention, overpayment recovery and more resilient technology and operations that can scale up to meet current and future challenges. Even after the PUA program expired in September 2021, the Department continues to partner with states and law enforcement to

[4] The UI Integrity Center is operated by the National Association of State Workforce Agencies (NASWA) Center for Employment Security Education and Research (CESER).

assist with establishing and recovering overpayments. These actions, which will strengthen the system now and prepare for the next economic crisis, are summarized below.

- **The Department successfully connected all 53 State UI agencies to the Integrity Data Hub to identify potentially fraudulent claims.** Continued Departmental guidance about the importance of the IDH and $140 million for fraud prevention grants for states from the American Rescue Plan to implement payment integrity strategies has resulted in all 53 UI systems being connected to the system (50 states, D.C., Puerto Rico, and the U.S. Virgin Islands)—up from 34 states in 2020. Importantly, 48 states are using a check for individuals attempting file for UI in multiple states and 41 states are using its Identity Verification solution, which spots claims that are potentially from identity fraud. The Department announced a second round of ARPA-funded fraud prevention grants of up to $100 million on July 13, 2023, to continue strengthening data-driven fraud prevention strategies including the IDH.
- **The Department-supported Integrity Data Hub launched a bank account verification service to ensure that UI payments are only paid to legitimate accounts owned by claimants.** In February 2022, DOL launched a Bank Account Verification (BAV) service that allows states to confirm the ownership and status of bank accounts before UI payments are deposited. This check, made in partnership with banks nationwide, verifies that UI payments are being deposited into legitimate bank accounts that match claimants' names—protecting against both identity fraud and claims hijacking on the front-end and throughout the life of the claim. Thirty-four states are currently participating in BAV, offered through the IDH, which has already flagged nearly 150,000 suspicious UI applications.
- **The Department is working with the Social Security Administration (SSA) to crossmatch UI claims with the SSA Prisoner Database (PUPS) to identify potential fraud.** Beginning in October 2021, DOL enabled state access to SSA's Prisoner Update Processing System (PUPS), allowing states to flag UI claims made by incarcerated individuals. This basic check, using data the U.S. Government already has access to, ensures that claims submitted under the identity of prisoners are flagged as potentially fraudulent and subjected to further investigation. Twenty-three states already have a connection to the SSA PUPS data or are in the process of setting the connection up.
- **The Department expanded access to data for the DOL-OIG for investigation and audits.** The Department required any state receiving grant funding from the American Rescue Plan to expand data sharing with the DOL-OIG. The recently released UIPL 11-23 further extends this data sharing with the DOL-OIG through 2025. As a result, the DOL-OIG has direct access to UI data for both fraud investigations and audits for the entirety of the

pandemic relief period. This change eliminated the need for the DOL-OIG to request data individually from states for this purpose.

- **The Department provided guidance to states to protect victims of UI fraud, ensuring states hold them harmless.** In April 2021, DOL issued important guidance to states to protect and educate victims of UI fraud:[5] This guidance directed states to ensure that the rightful owner of the social security number is not held responsible for the overpayment and (when possible) not issued a 1099-G tax form. In addition, states were directed to conduct enhanced identity verification on any future claims filed under the victim's social security number in ways that protect against fraud, while allowing legitimate claims from the victim to go through. Moreover, to inform the public about their rights and responsibilities, ETA launched a new website in both English and Spanish (www.dol.gov/fraud and www.dol.gov/fraud/es) to help people understand unemployment ID fraud, how to report it, and to provide resources to help individuals experiencing unemployment ID fraud. The Department worked collaboratively with other federal government agencies, federal law enforcement partners, and state UI agencies to consolidate the necessary steps to report unemployment ID fraud, validate state contact information and fraud reporting resources, and conduct user testing to confirm the website's instructions were clear and easy to understand.
- **The Department is implementing the GAO's Fraud Risk framework.** The Department has developed a UI fraud risk profile to identify and implement additional antifraud strategies to enhance the existing UI Integrity Strategic Plan in accordance with the GAO's Fraud Risk Framework. This action responds to GAO recommendations in October 2021 and January 2023 looking back at challenges during the pandemic. The Department has assessed its ongoing UI fraud risk mitigation efforts and combined existing UI Integrity Strategic Plan activities into a comprehensive UI fraud risk profile consistent with leading practices provided in GAO's Fraud Risk Framework. The Department plans to review, update, and evolve the UI fraud risk profile to ensure UI fraud risk are being identified, assessed, and prioritized effectively to better inform our antifraud strategy and controls.

The Department is continuing to use the funds provided in the March 2021 American Rescue Plan to prevent UI fraud and make UI systems more resilient. These funds represent a much needed down payment on the upgrades and reforms needed by state systems to protect against fraud and reduce errors now and in the future.[6] Given the damage that identity fraud did during

[5] U.S. Department of Labor, "Identity Verification for Unemployment Insurance (UI) Claims," UI Program Letter 16-21, April 13, 2021, https://www.dol.gov/sites/dolgov/files/ETA/advisories/UIPL/2021/UIPL_16-21.pdf

[6] The Fiscal Responsibility Act, signed into law on June 3, 2023, reduced the total amount of funds available under Section 9032 of the CARES Act from $2 billion to $1 billion.

the pandemic, our ARPA initiatives have particularly focused on supporting states in equitably verifying the identities of individuals applying for benefits.

- **The Department has deployed expert multi-disciplinary Tiger Teams to analyze state UI systems and fund the implementation of recommended changes:** The Department used ARPA funds to create multi-disciplinary expert teams to help states identify recommendations to address fraud prevention, equity, and improving processes and addressing backlogs in the UI program and to fund states' implementation of many of these recommendations. About two-thirds of all Tiger Team recommendations either directly or indirectly strengthen integrity efforts, such as improved identity verification, claims risk scoring, and increasing state usage of the multi-state UI Integrity Data Hub. States are receiving up to $114 million in grants to implement recommendations from these assessments.
- **The Department is providing states up to $234 million for anti-fraud grants and identity theft prevention.** In 2021, the Department provided 50 states with $134 million in ARPA fraud prevention grants. (See UIPL No. 22-21). States have used these grants to temporarily add staff for benefit payment control activities, to subscribe to identity proofing services, and to acquire data analytics to improve identification of claims warranting further investigation. On July 13, 2023, the Department announced that it is making an additional $100 million available to states to continue strengthening required and recommended fraud prevention strategies, including identity verification. (See UIPL No. 11-23.)
- **The Department is making government-operated identity verification options available to states.** The Department is giving new tools to states to prevent identity fraud. As part of its UI Modernization activities, the Department is offering states nationwide identity verification services, including digital identity verification through GSA's Login.gov tool, as well as in person identity verification at local U.S. Postal Service Post Office™ locations at no cost for 2 years. (See UIPL No. 11-23[7].)
- **The Department is making $200 million available for grants to improve the resiliency of State IT systems and their ability to respond to changing fraud threats.** The Department is making its largest investment ever in grants to modernize vulnerable state IT systems, countering decades of underinvestment that led to significant fraud and payment errors. Grants will primarily support projects that move UI systems into the cloud and implement modular-driven approaches. This approach will improve the overall ability of UI systems to scale up to increases in demand and to become more interoperable with fraud prevention technologies. The result will be IT infrastructure

[7] U.S. Department of Labor, "Announcement of Grant Opportunities and National Identity (ID) Verification Offering under the American Rescue Plan Act (ARPA)," Unemployment Insurance Program Letter 11-23, July 13, 2023.

that can better protect the system from fraud, while also providing a mechanism to promote equitable access, increase timely access to benefits and deliver improved customer experience. (See UIPL No. 11-23.)

The Department has carefully heeded the lessons of the pandemic, providing financial support and other resources to states to recover improper payments during the pandemic period, and to protect victims of identity fraud. The Department is building automated fraud prevention tools and identity verification procedures that are enabling states to prevent large numbers of attempted fraudulent claims from being paid out. The Department is helping states to redesign their IT systems so that they can maintain the use of fraud prevention technologies even when increases in levels of claims and new program requirements put extra stress on the system. Our strategy is to help states to be much better prepared and protected the next time that the UI program is called upon to protect Americans from an economic crisis.

Analysis: Improper Payment Rates in the PUA Program

While the high risks of improper payments in the PUA program have been documented in prior reports (including those by the DOL-OIG and GAO), determining valid improper payment estimates for a program implemented during the tumultuous pandemic period has been challenging. Yet, establishing improper rates is a critical part of understanding the pandemic programs and ensuring payment integrity in the future. **Thus, the Department conducted a detailed analysis to calculate an estimated improper payment rate for the temporary Pandemic Unemployment Assistance program.**

Consistent with the requirements in PIIA (Payment Integrity Information Act), this analysis focused on the broad category of improper payments, including overpayments, underpayments, and payments that could not be determined as valid, overpaid, or underpaid. While fraud due to weakened controls in 2020 may have contributed to overpayments, this analysis focuses on the broader universe of improper payments, does not isolate fraud, and should not be considered a fraud estimate for the PUA program. It would be inaccurate to characterize the overpayment or improper payment rate as the rate of any one type of improper payment, such as fraud.

- **The analysis concludes that the estimated overpayment rate in the PUA program is 17.0 percent.** This is the Department's estimate of the share of all PUA payments overpaid.
- **Overpayments can occur for multiple reasons**. There are many reasons that weeks of PUA payments could be overpaid, including through no fault of the claimant. This includes situations when an individual was unemployed but paid a PUA payment that was the wrong amount. For example, a self-employed individual could have been paid a PUA amount calculated on their gross earnings, when PUA rules indicated they should be calculated on the basis of net earnings. Individuals could also have been paid PUA benefits

when they were eligible for and should have been paid state UI benefits instead. These payments also could have occurred when state agencies failed to implement PUA policies correctly, and individuals were overpaid when they did nothing to intentionally mislead.

- **Our review also found that 1.5 percent of PUA benefits were underpaid.** In the scope of this review, this represents PUA benefits to workers who were eligible for benefits but were paid a lesser amount than they were owed. A common situation would be individuals who were paid the minimum PUA benefit but who should have been paid a greater amount based on additional information they had submitted to the state.
- **The review found that 17.4 percent of benefits could not be determined as valid, overpaid, or underpaid.** Many PUA payments in our review could not be conclusively assessed because proper documentation was not collected or retained to back up the payments, or because required cross matches with quarterly wage records or National Directory of New Hires records were not conducted at the time of the payment. While it is possible that documentation or cross matches could have shown that a payment was proper, there is insufficient evidence for us to determine the validity of these payments.
- **PIIA rules stipulate that a federal program's improper payment rate is a sum of its overpayment, underpayment, and rates of payments that cannot be conclusively determined.** Thus, the Department has reported to the Office of Management Budget that the PUA program had a total improper payment rate of 35.9 percent. It is important to reiterate that this improper payment rate should not be summarized as the level of overpayments in the UI program, as it includes payments for which the validity cannot be established, as well as underpayments.

Our analysis included a comprehensive, in-person review of sampled claim files by specialized agency staff as well as a thorough analysis of administrative records.

- **The Department has been working to produce an estimate of improper payments in the PUA program in compliance with PIIA.** PIIA requires that improper payment rates be calculated for any federal program in effect for at least 12 months that is determined to be at high risk for improper payments. Since PUA is fundamentally different from regular UI with different eligibility requirements and serving a different population of workers, the Department's standard methodology for estimating UI improper payments using Benefit Accuracy Measurement data could not be used.
- **The Department conducted a review of a random, nationally representative sample** of 2,540 PUA cases selected from 26 state and territorial unemployment insurance programs. (Details about the states involved and the review can be found here). The review assessed the nature of each payment sampled based on information contained in the case file at time of the review during the summer of 2022, and provides much of the data needed to estimate the rate of improper payments in the PUA program nationwide.

- **A hybrid methodology for estimating PUA improper payments was necessary** because a portion of the sampled case files had missing documentation, impacting DOL's ability to determine if a payment was valid, overpaid, or underpaid. Many case files did not have information about required cross matches between PUA and state wage records (to determine if individuals might be eligible for regular UI instead of PUA) or with the National Directory of New Hires (to check if individuals returned to work after collecting UI benefits).[8] Information about these required cross matches and other documentation varied depending on when the claim was filed and by state.
- **The Department used state-reported administrative data to produce a valid estimate of improper payments in the PUA program.** Administrative data reflects how many overpayments have been established through state benefit payment control activities. This information provides another data point that can be used to estimate the level of overpayments.

Conclusion and Looking Ahead

UI programs played a pivotal role in protecting the American people from the economic effects of the COVID-19 pandemic, saving thousands of lives[9] and the economy from a severe recession. The American people should be able to count on the UI system to act as the first responder to future economic distress, workers should have the assurance that benefits routed them or claimed in their name are legitimate and taxpayers should be able to trust that funds allocated for benefits are carefully safeguarded. This review confirms the tremendous challenge the Administration faced when it inherited the pandemic economic crisis and the importance of our recent and ongoing fraud prevention and overpayment recovery efforts. The work of modernizing and protecting the UI program will require a long-term commitment and additional funding. Critically, the Administration's FY24 budget includes a comprehensive package of legislation and funding to ramp up efforts by federal investigatory and law enforcement agencies for this purpose. This includes increased resources for investigations, fraud prevention, and helping victims of identity theft. It also proposes new requirements for states to use data cross-matching to identify suspicious UI claims, and new flexibility for states to retain a percentage of recovered fraudulent payments for further benefit payment control activity. Today's report underscores the importance of these initiatives and the need to continue to learn from the challenges exposed by the pandemic.

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[8] These situations could include claimants that were eligible for UI benefits but may have been paid form the wrong program or in the wrong amount. Some sampled case files were missing other important documentation, including accurate information about whether the claimant had lost employment due to COVID19 (as required by the PUA law and guidance).

[9] Stan Austin, "Connections drawn between enhanced unemployment benefits and lives saved," Federal Reserve Bank of Kansas City, October 14, 2020, https://www.kansascityfed.org/ten/2020-fall/Connections-drawn-between-enhanced-unemployment-benefits-and-lives-saved/