

**WRITTEN TESTIMONY OF
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**Before the House Committee on Appropriations
Subcommittee for Labor, Health and Human Services,
Education, and Related Agencies
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Good morning, Mr. Chairman and Members of the Subcommittee, thank you for inviting me to testify today in my capacity as the Assistant Inspector General for Audit at the U.S. Department of Labor (DOL). I am pleased to discuss improper payments in the Unemployment Insurance (UI) program. As you know, the Office of Inspector General (OIG) is an independent agency within the Department of Labor. The views expressed in my testimony are therefore based on the independent findings and recommendations of the OIG's audit work, and are not intended to reflect the Department's positions.

The Federal-state unemployment insurance program offers the first economic line of defense against the collective impact of unemployment. The Employment and Training Administration (ETA) within DOL oversees this nationwide system, which is administered by the states. The UI program is a social insurance program that generally provides benefits to those who have lost their jobs through no fault of their own. As a temporary, partial wage replacement to the unemployed, the UI program is important: in helping eligible, unemployed workers to obtain basic life necessities such as food, shelter and clothing; in maintaining purchasing power; and in stabilizing the economy. Given the nature of this program, states are challenged in paying claims as quickly as administratively possible while ensuring that benefits are paid properly.

While funding for the UI program comes primarily from state employer taxes, in recent years, more and more funding has come from Federal appropriations as extensions to emergency unemployment benefits have been enacted. In Fiscal Year 2010, \$156 billion in total UI benefits were paid, of which \$72 billion were for emergency unemployment benefits. In fact, more than \$124 billion in Federal funds for emergency unemployment benefits have been paid out since 2008. Moreover, it is important to note that 32 of 53 state UI jurisdictions currently owe the Treasury in excess of \$44 billion in loans needed to fulfill their UI claims, because their UI trust funds were insolvent.

Recently, both the Administration, through Executive Order 13520, and Congress, through the passage of the Improper Payments Elimination and Recovery Act of 2010 (IPERA), have placed a renewed focus on eliminating improper payments in benefit programs such as in the UI program. Pursuant to the Executive Order, OMB

has designated UI as 1 of the 14 “high error programs” in the Federal Government. This designation requires DOL to take certain actions to measure and reduce improper payments. For 2010, DOL reported an 11.2 percent improper payment rate for UI benefits, which represents \$16.5 billion in overpayments and \$936 million in underpayments.

OIG Oversight

The OIG has certain oversight responsibilities regarding the UI program. We carry out this oversight through a program of audits and investigations to identify program weaknesses and vulnerabilities, and to detect and prevent fraud within the program. For more than a decade, we have highlighted UI program integrity as one of the top management challenges facing the Department. We have also recommended legislative action to grant the Department access to state UI wage records, Social Security wage records, and employment information from the National Directory of New Hires for program evaluation and fraud detection purposes.

Consistent with the Committee’s request, I will discuss the OIG’s audit oversight of the UI program.

In 1987, the Department implemented the Benefit Accuracy Measurement (BAM) program to monitor the accuracy of UI benefit payments. BAM has been used to statistically project the amount of overpayments and underpayments in the program, which entails an extensive review of more than 20,000 UI claims each year.

In 2003, the OIG audited the BAM program.¹ At that time, we found that the BAM program generally identified and projected overpayments and underpayments accurately. However, we identified the need for improved detection of benefit payments to workers who had returned to work. To that end, the OIG recommended that ETA expand the use of the National Directory of New Hires database to all states as a tool to identify overpayments early in the process, thus potentially preventing future losses of UI funds.² The National Directory of New Hires is a nationally consolidated database maintained by the U.S. Department of Health and Human Services that contains information on persons who have returned to work. We also recommended that ETA revise its performance measurement system to give priority to measures aimed at preventing UI overpayments, use the BAM data to identify trends of overpayments, and work with State Workforce Agencies on initiatives to prevent overpayments.

Since 2003, our audit work has continued to demonstrate the importance of using the National Directory as an effective tool in the early detection of overpayments. For instance, in a 2004 audit of benefit payment controls, we found that compared to

¹ OIG Report No. 22-03-009-03-315, “Improved Quality Control Practices Within the Benefit Accuracy Measurement System Could Save the Unemployment Insurance Trust Fund Approximately \$400 Million Annually,” issued September 30, 2003

² At the time of our audit, 10 states were not using the National Directory of New Hires to detect overpayments and 8 states were using it on a limited basis.

cross matches involving state wage records, the new hire detection method identified overpayments earlier, allowing states to more promptly stop such payments and initiate recovery efforts.³ As a result of this audit, we made several recommendations to ETA, including seeking legislation to require employers to report a new hire's first day of earnings, and to increase the states' use of the new hire detection method.

Additional audit work done in the aftermath of Hurricane Katrina in 2006 provided further evidence of the scope of the return to work issue, and the potential usefulness of the National Directory, but also its challenges.⁴ In order to assess the amount of improper payments from the numerous UI claims filed after the hurricanes, the OIG worked with the State of Louisiana to perform a match between UI claimants in Louisiana and the National Directory. The match identified more than \$51 million in UI benefits that had been paid to more than 30,000 claimants after they had been reported as returning to work, which we reported to ETA. However, the National Directory did not require reporting of the specific date on which a claimant began paid services. This required Louisiana to begin follow up on more than 30,000 claimants before any action on their benefits could be taken.

In March of 2009, we reported to ETA that 49 of the 53 State Workforce Agencies were using the National Directory for benefit payment control.⁵ However, at that time, ETA indicated that it did not see the need to mandate that all states use the National Directory, as we had recommended 6 years earlier, because it expected that all states would soon be doing so voluntarily. We also noted that ETA could do more to ensure State Workforce Agencies were effectively using data from the National Directory to prevent overpayments, and recommended that ETA continue to pursue legislation to define the "Date of Hire" and mandate its reporting by employers.

We are pleased to note that the Department is now planning to mandate that all states use the National Directory of New Hires. ETA has also made changes to its performance measures, and now includes overpayment detection as a core performance measure for States consistent with our earlier audit recommendation. We also note that two UI provisions were contained in the recently passed Claims Resettlement Act of 2010, including the requirement for employers to report the first day of earnings for new hires to the National Directory of New Hires, as we previously recommended.

³ OIG Report No. 05-04-002-03-315, "Unemployment Insurance Benefit Payment Control," issued September 30, 2004.

⁴ OIG Report No. 06-07-003-03-315, "The Louisiana Department of Labor Paid \$51 Million in Hurricane-related Unemployment Benefits on Questionable Claims Management Letter," issued September 28, 2007.

⁵ OIG Report No. 06-09-002-03-315, "Enhanced Oversight Will Improve State Workforce Agencies' Use of the National Directory of New Hires to Prevent and Detect Unemployment Compensation Overpayments," issued March 31, 2009.

Improper Payment Reduction Mandates

Under Executive Order 13520, the Department was required to establish a maximum target rate for UI improper payments. The target rate for 2011 is 9.8 percent. However, the estimated improper payment rate has actually risen over the past 3 years from 10 percent to 11.2 percent. According to the Department, the primary causes of the high improper payment rate were increases in overpayments to claimants who continued to claim benefits after they returned to work, claimants ineligible for benefits because they voluntarily quit their jobs or were discharged for cause, and claimants who failed to meet active work search requirements.

Under the Executive Order, the Department was also required to provide the OIG with a report containing its methodology for identifying and measuring improper payments, and a description of its efforts to meet reduction targets. We reviewed the Department's May 2010 report and found that the UI improper payment reduction plan did not include specific targets for preventing improper payments, sufficient details regarding meeting the targets, or supporting analysis related to the implementation initiatives and their expected impact. For example, in the UI improper payment report, seven "integrity" initiatives were mentioned to detect, recover, and prevent improper UI payments, which should reduce improper payments. However, 5 of the 7 initiatives focused the majority of their efforts on detection rather than prevention of overpayments. Also, the Department's methodology for identification and measurement of improper payments in the BAM did not evaluate temporary programs such as the Emergency Unemployment Compensation and the Extended Benefits programs, which are currently all federally funded.

Current OIG Audit Work

Mr. Chairman, last fall we identified the need to conduct additional audit work on UI improper payments in light of the overall increase in UI benefits over the past few years, and the fact that the improper payment rate has increased in recent years.

One of the areas we are currently focusing on is the quality of the data that states are reporting to the Department and its usefulness in preventing overpayments. In the year ahead, we have plans to conduct audits at the state-level to evaluate the techniques states are using to detect and prevent improper payments, how states assess the effectiveness of those techniques, and whether any states have best practices that other states should consider implementing. Additionally, we plan to look at the adequacy of systems operated by the State Workforce Agencies to recover identified overpayments in a timely manner.

Lastly, under IPERA, the Department is required to file an annual compliance report with OMB. We will be conducting audits each fiscal year to determine whether the Department is in compliance with the requirements of IPERA.

Conclusion

In conclusion Mr. Chairman, 60 percent of the states are currently borrowing Federal funds to pay their UI claims and owe the Treasury \$44 billion. This is over and above the expenditure of more than \$124 billion in Federal funds paid out over the past 3 years for extended and emergency unemployment compensation. Given these facts, an increasing overpayment rate, and the current economic condition, identification of overpayments is simply not enough. As we have previously recommended, the Department and the states must identify strategies, such as maximizing the use of the National Directory, that not only detect overpayments, but which successfully prevent them in the first place.

Thank you, Mr. Chairman, for the opportunity to testify at today's hearing. I would be pleased to answer any questions you or the other members of the Subcommittee may have.