

# U.S. Department of Labor

Office of Inspector General—Office of Audit

## REPORT TO THE EMPLOYMENT AND TRAINING ADMINISTRATION



## ETA AND STATE WORKFORCE AGENCIES NEED TO DO MORE TO RECOVER PANDEMIC UI PROGRAM IMPROPER PAYMENTS

This report was prepared by Regis & Associates, PC under contract to the U.S. Department of Labor, Office of Inspector General, and by acceptance, it becomes a report of the Office of Inspector General.

A handwritten signature in blue ink, reading "Laura B. Nieves".

U.S. Department of Labor  
Assistant Inspector General for Audit

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## BRIEFLY...

### **ETA and State Workforce Agencies Need to Do More to Recover Pandemic UI Program Improper Payments**

#### **Why We Did the Audit**

The economic emergency resulting from the COVID-19 pandemic led to new unemployment insurance (UI) programs created under the Coronavirus Aid, Relief, and Economic Security (CARES) Act. The CARES Act and subsequent Continued Assistance for Unemployed Workers Act of 2020 (Continued Assistance Act) and the American Rescue Plan Act of 2021 (ARPA) provided payments under three key pandemic-related UI programs that were implemented by state workforce agencies (SWA). The Employment and Training Administration (ETA) provided guidance and monitored SWAs' administration of the programs.

Based on audits of previous emergency UI program implementation, we were concerned about SWAs' ability to effectively recover pandemic UI program improper payments. We contracted with the independent, certified public accounting firm of Regis & Associates, PC (Regis) to conduct an audit to answer the following question:

Did ETA ensure that SWAs had adequate controls to recover UI improper payments under the CARES Act, Continued Assistance Act, and ARPA?

Regis' audit procedures included assessing ETA's oversight, performing

in-depth testing for 10 SWAs, and surveying 43 other SWAs regarding activity under the CARES Act, Continued Assistance Act, and ARPA.

#### **What We Found**

Regis concluded ETA and SWAs need to do more to recover improper payments from federally-funded temporary pandemic UI programs. For the period from April 1, 2020, through September 30, 2022, the 10 audited SWAs reported a total of \$10.4 billion in overpayments for the programs reviewed, \$676.3 million of which was attributed to fraud. Regis found the overpayment recovery rates for the selected SWAs were far below ETA's core performance measure for regular UI paid from state trust funds. Further, Regis determined the 10 audited SWAs waived approximately \$601.6 million more in overpayments than they recovered. This highlights the need for SWAs to do more to recover overpayments, as well as prevent improper payments caused by SWAs' lack of adequate controls.

The 10 audited SWAs—along with the other SWAs across the U.S.—established significantly less overpayments for recovery than what was estimated by Regis using the ETA published UI overpayment rates. Regis estimated that, for the audited SWAs, approximately \$23.5 billion of potential overpayments were not established; thus, they were not pursued for collection. Additionally, Regis identified SWAs did not consistently use the recovery methods mandated by law, nor the methods strongly recommended by ETA. Regis also noted SWAs' ability to recover CARES Act UI program overpayments may be limited by states' finality laws. ETA deferred to states to apply their finality laws to limit when a state may reconsider a prior decision or determination made on a CARES Act-funded UI claim. We are concerned this change in policy may hinder the recovery of overpayments and detection of fraud. Improper payment recovery activities are crucial for maintaining the integrity of the unemployment benefits system and public trust in these programs.

#### **What We Recommended**

Regis made four recommendations to ETA to improve improper payments recovery. These recommendations included: (1) developing lessons learned and providing SWAs with resources to address the root causes of CARES Act-related overpayments, (2) requiring SWAs to maximize all recovery methods, and (3) continuing to work with Congress to lift restrictions and develop incentives to recover federally-funded UI overpayments. While the Draft Report was provided to ETA in December 2024, due to recent senior leadership changes, ETA was unable to provide a timely response. When ETA provides a response, we will post it, along with our analysis to our website.

#### **Read the Full Report**

<https://www.oig.dol.gov/public/reports/oa/2025/19-25-003-03-315.pdf>

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## INSPECTOR GENERAL'S REPORT

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The U.S. Department of Labor (DOL) Office of Inspector General (OIG) contracted with the independent certified public accounting firm of Regis & Associates, PC (Regis) to conduct a performance audit of the Employment and Training Administration (ETA). The audit evaluated ETA's efforts to ensure state workforce agencies (SWA) had adequate controls in place to recover unemployment insurance (UI) improper payments under the Coronavirus Aid, Relief, and Economic Security (CARES) Act, the Continued Assistance for Unemployed Workers Act of 2020 (Continued Assistance Act), and the American Rescue Plan Act of 2021 (ARPA).

The OIG monitored Regis' work to ensure it met professional standards and contractual requirements. Regis' independent audit was conducted in accordance with generally accepted government auditing standards.

Regis was responsible for the auditor's evaluation and the conclusions expressed in the report, while the OIG reviewed Regis' report and supporting documentation.

### Background

Following the start of the COVID-19 pandemic in early 2020, unemployment compensation claims across the U.S. rose exponentially to unprecedented levels. On March 14, 2020, DOL reported 282,000 initial unemployment claims. Within 2 to 3 weeks, initial claims rose to 10 times pre-pandemic levels, which were far higher than state systems were designed to handle.<sup>1</sup> Within 5 months (through August 15, 2020), DOL reported more than 57 million initial claims, which was the largest increase since DOL began tracking UI data in 1967.

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<sup>1</sup> COVID-19: States Struggled to Implement CARES Act Unemployment Insurance Programs, Report No. 19-21-004-03-315 (May 28, 2021), available at: <https://www.oig.dol.gov/public/reports/oa/2021/19-21-004-03-315.pdf>

In a 2023 congressional testimony,<sup>2</sup> the OIG stated it has repeatedly reported significant concerns with DOL's and SWAs' ability to deploy UI program benefits expeditiously and efficiently, while ensuring integrity and adequate oversight. In April 2020,<sup>3</sup> the OIG reported six initial areas of concern for ETA and SWAs to consider as they implemented the UI provisions in the CARES Act. These concerns were based on years of oversight work of DOL's UI program, including the use of prior stimulus funds. One of those six areas was improper payment detection and recovery.

SWAs were required by the CARES Act, as amended, to pursue the recovery of overpayments—unless a SWA waived recovery of payment in cases where the claimant was without fault and recovery would have been against equity and good conscience. In February 2022, ETA advised SWAs of seven circumstances in which they could waive recovery of CARES Act overpayments without case-by-case analysis. These types of waivers are called “blanket waivers.” The OIG began conducting additional work in Fiscal Year 2023 to determine the impact of waivers, including blanket waivers, on UI overpayments, fraud investigations, and recoveries.<sup>4</sup>

## **Purpose**

On March 27, 2020, the CARES Act was signed into law to provide expanded UI benefits to workers who were unable to work due to the COVID-19 pandemic. On December 27, 2020, the Consolidated Appropriations Act, 2021, which includes the Continued Assistance Act, amended certain provisions of the CARES Act to include extending the emergency UI programs.

Under the CARES Act, the Pandemic Unemployment Assistance (PUA) and Pandemic Emergency Unemployment Compensation (PEUC) program benefits expired on December 31, 2020. The Federal Pandemic Unemployment Compensation (FPUC) program's supplemental benefits of \$600 per week expired on July 31, 2020. The Continued Assistance Act extended the PUA and PEUC programs to weeks of unemployment ending on or before March 14, 2021. Additionally, FPUC was reauthorized and modified to provide \$300 per week in

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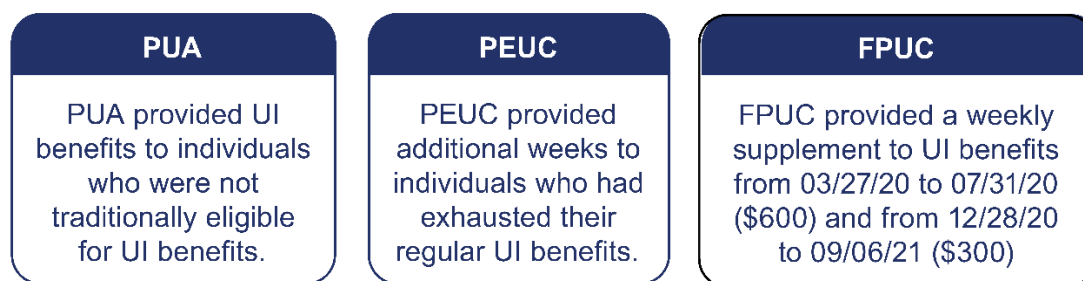
<sup>2</sup> “The Greatest Theft of American Tax Dollars: Unchecked Unemployment Fraud,” Hearing, Statement for the Record of Larry D. Turner, Inspector General, U.S. Department of Labor; House Committee on Ways and Means (February 8, 2023), available at: <https://www.oig.dol.gov/public/testimony/02082023.pdf>

<sup>3</sup> Advisory Report, CARES Act: Initial Areas of Concern Regarding Implementation of Unemployment Insurance Provisions, Report No. 19-20-001-03-315 (April 21, 2020), available at: <https://www.oig.dol.gov/public/reports/oa/2020/19-20-001-03-315.pdf>

<sup>4</sup> COVID-19: Impact of Waivers on UI Overpayments, Fraud Investigations, and Recoveries (April 26, 2023), available at: [https://www.oig.dol.gov/public/oaprojects/COVID-19%20Impact%20of%20Waivers%20Eng%20Ltr\\_042623.pdf](https://www.oig.dol.gov/public/oaprojects/COVID-19%20Impact%20of%20Waivers%20Eng%20Ltr_042623.pdf)

supplemental benefits for weeks of unemployment beginning after December 27, 2020, and ending on or before March 14, 2021. ARPA further extended the PUA and PEUC programs to weeks of unemployment ending on or before September 6, 2021. ARPA also extended the FPUC program of \$300 per week through the week ending on or before September 6, 2021 (see Figure 1 below).

**Figure 1: Three Key Pandemic-Related UI Programs**



Source: CARES Act and related extensions

Regis' audit work focused on ETA's and SWAs' efforts to recover improper payments in three key emergency UI programs—PUA, PEUC, and FPUC—for the period March 27, 2020, to April 6, 2021. These programs were funded under the provisions of the CARES Act, the Continued Assistance Act, and ARPA at the height of the pandemic UI claims surge. An improper payment is any payment that should not have been made. Specifically, the payment could have been a duplicate payment or a payment made: (1) in an incorrect amount, (2) to an ineligible recipient, (3) for an ineligible good or service, or (4) for a good or service not received. An improper payment can be an underpayment or an overpayment.<sup>5</sup>

For the 12 months ending March 31, 2021, the cumulative underpayment rate for the 52<sup>6</sup> SWAs whose Benefit Accuracy Measurement (BAM) program data was available ranged from a low of 0 percent in Arizona, Indiana, Kansas, and Maryland to a high of 4 percent in Alaska. The cumulative overpayments for the 52 SWAs for the same time period ranged from a low of 4 percent in Hawaii to a

<sup>5</sup> Payment Integrity Information Act of 2019, 31 USC § 3301, Public Law 116-117 (March 2, 2020)

<sup>6</sup> According to ETA's BAM program fact sheet, BAM data for paid and denied claims are available for the 50 states, the District of Columbia, and Puerto Rico. BAM data does not include the U.S. Virgin Islands. The BAM fact sheet is available at: [https://oui.doleta.gov/unemploy/bam/2002/bam\\_fact.asp](https://oui.doleta.gov/unemploy/bam/2002/bam_fact.asp)



high of 47 percent in Virginia<sup>7</sup>. Accordingly, Regis' work focused on overpayments.

The scope of this audit covered PUA and PEUC claims, as well as FPUC payments, of 10 SWAs for the period from April 1, 2020, through September 30, 2022. Regis also performed analyses of recovery activities for the period from April 1, 2020, through September 30, 2022, using data reported by the SWAs on ETA required reports. The SWAs were selected by the OIG using a risk analysis of factors that included, but were not limited to: funding amounts, claims information, information technology modernization projects, and ETA's published improper payment rates.

The 10 SWAs the OIG selected for audit were Connecticut, Florida, New Jersey, North Carolina, Pennsylvania, Rhode Island, South Carolina, Texas, Washington, and Wisconsin. For the period from April 1, 2020, through September 30, 2022, the 10 audited SWAs reported \$176.1 billion<sup>8</sup> of benefit payments for the PUA, PEUC, and FPUC programs. On ETA reports, these 10 SWAs also reported a total of \$10.4 billion in overpayments<sup>9</sup> for the programs reviewed, \$676.3 million of which was attributed to fraud.

In addition, Regis surveyed SWAs and territories that were not selected for in-depth examination to gather similar information about their efforts to recover PUA, PEUC, and FPUC improper payments. Surveys were sent to the remaining 43 SWAs. Sixteen (37 percent) of the 43 SWAs responded to the survey.

Regis conducted this performance audit to answer the following question:

Did ETA ensure that SWAs had adequate controls to recover UI improper payments under the CARES Act, the Continued Assistance Act, and ARPA?

To answer this question, Regis reviewed SWAs' improper payment recovery strategies and compliance with applicable requirements. Regis obtained an understanding of ETA's and SWAs' internal controls through interviews and reviews of their policies and procedures. Regis also performed other audit procedures of ETA's and SWAs' processes to determine compliance with

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<sup>7</sup> DOL, Unemployment Insurance Payment Accuracy Datasets, 12-Month Data (April 1, 2020 – March 31, 2021), last accessed January 23, 2024, available at: <https://www.dol.gov/agencies/eta/unemployment-insurance-payment-accuracy/data>

According to ETA, the data presented only included three quarters of the calendar year because the BAM program was suspended at the end of March 31, 2020, due to the COVID-19 pandemic. Within the source document, ETA also notes several other limitations of the data.

<sup>8</sup> Based on the amounts reported by SWAs for the PUA, PEUC, and FPUC programs on the monthly ETA 902 PUA reports, ETA 5159 PEUC reports, and ETA 2112 reports, respectively.

<sup>9</sup> Fraudulent and non-fraudulent benefit overpayments are reported on the monthly ETA 902 PUA, ETA 227 PEUC, and ETA 227 FPUC reports.

program requirements. See Appendix A for additional details on scope and methodology.

## Results

Regis concluded ETA and SWAs need to do more to recover improper payments from federally-funded temporary pandemic UI programs. Regis found that the overpayment recovery rates for the selected SWAs were far below ETA's core performance measure for regular UI<sup>10</sup> paid from state trust funds. Further, Regis determined that the 10 audited SWAs waived approximately \$601.6 million more in overpayments than they recovered for the period from April 1, 2020, through September 30, 2022. This highlighted the need for SWAs to do more to recover overpayments, as well as prevent improper payments caused by SWAs' lack of adequate controls. Also, the 10 audited SWAs—along with the other SWAs across the U.S.—established significantly less overpayments for recovery than what was estimated by Regis using ETA's published UI overpayment rates<sup>11</sup>. Regis identified that SWAs did not consistently use the recovery methods mandated by the CARES Act and the Continued Assistance Act, nor the methods strongly recommended by ETA. Regis also noted that legal restrictions on some of the overpayment recovery methods and states' finality laws curtailed SWAs ability to recover more overpayments.

We appreciate the cooperation and courtesies ETA extended to us during this audit.



Laura B. Nicolosi  
Assistant Inspector General for Audit

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<sup>10</sup> Core performance measures were not established for the federally-funded temporary UI programs. Regis used ETA's performance core measures for regular UI (paid from state trust funds) as a benchmark to evaluate the performance of the federally-funded temporary UI programs.

<sup>11</sup> The overpayment rates used for the PEUC and FPUC programs were based on the results of the BAM statistical survey conducted by ETA for regular UI to determine improper payment rates. The BAM improper payment rates consisted of overpayment plus underpayment rates. The regular UI improper payments rates data is available at:

<https://www.dol.gov/agencies/eta/unemployment-insurance-payment-accuracy/data>.

ETA performed a separate analysis to determine the improper payment rate for the PUA program, which was for individuals that did not qualify for the traditional UI program. The PUA improper payment rate also included an unknown rate, which was for payments that could not be determined as valid, overpaid, or underpaid. The PUA improper payment rate report is available at:

[https://oui.doleta.gov/unemploy/pdf/Pandemic\\_Unemployment\\_Assistance\\_Improper\\_Payment\\_Rate\\_Report.pdf](https://oui.doleta.gov/unemploy/pdf/Pandemic_Unemployment_Assistance_Improper_Payment_Rate_Report.pdf)



## CONTRACTOR PERFORMANCE AUDIT REPORT



### Independent Auditor's Performance Audit Report on ETA's and State Workforce Agencies' Efforts to Recover Improper Payments

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We were engaged by the U.S. Department of Labor (DOL) Office of Inspector General (OIG) to conduct a performance audit of the Employment and Training Administration's (ETA) and state workforce agencies' (SWA) efforts to recover improper payments under programs authorized by the unemployment insurance (UI) provisions of the Coronavirus Aid, Relief, and Economic Security (CARES) Act and the Continued Assistance for Unemployed Workers Act of 2020 (Continued Assistance Act) and the American Rescue Plan Act of 2021 (ARPA). We conducted the audit to answer the following question:

Did ETA ensure that SWAs had adequate controls to recover UI improper payments under the CARES Act, the Continued Assistance Act, and ARPA?

To answer this question, we reviewed UI improper payments for the Pandemic Unemployment Assistance (PUA), Pandemic Emergency Unemployment Compensation (PEUC), and Federal Pandemic Unemployment Compensation (FPUC) programs for the period from March 27, 2020, to April 6, 2021. We also performed an analysis of recovery activities for the period from April 1, 2020, through September 30, 2022, using data SWAs provided on ETA required reports.

The OIG used a risk-based approach to select 10 SWAs for an in-depth examination of policies, processes, and outcomes for three programs—PUA, PEUC, and FPUC. The 10 audited SWAs were Connecticut, Florida, New Jersey,

North Carolina, Pennsylvania, Rhode Island, South Carolina, Texas, Washington, and Wisconsin. In addition, we sent surveys to 43 SWAs that were not selected for in-depth examination to gather similar information about their efforts to recover PUA, PEUC, and FPUC improper payments. Sixteen (37 percent) of the 43 SWAs responded to the survey. See Appendix A for additional details on scope and methodology.

## RESULTS

We identified that ETA and SWAs need to do more to recover improper payments within the three key pandemic-related UI programs audited. We observed that overpayment recovery rates under these key pandemic-related UI programs for the selected SWAs were far below ETA's core performance measure for recovering overpayments of regular UI. Specifically, we found that SWAs waived significantly more overpayments than they recovered. Further, SWAs did not consistently perform mandatory and strongly recommended activities to recover overpayments. Also, we found that legal restrictions on some of the overpayment recovery methods and states' finality laws curtailed SWAs' ability to recover more overpayments.

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### **Improper Payment Recovery Rates of Emergency Pandemic UI Programs Were Far Lower Than Regular UI Target Levels**

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We found SWAs recovered improper payments at rates that were far lower than the level deemed acceptable under ETA guidance for regular UI overpayments (recovery core measure)<sup>12</sup>. Specifically, ETA guidance calls for a minimum recovery rate of 68 percent. Given that ETA did not establish a core performance measure for overpayment recoveries applicable to the three key pandemic-related UI programs under audit, we used the regular UI recovery-related core performance measure as a benchmark for evaluating the key emergency programs.

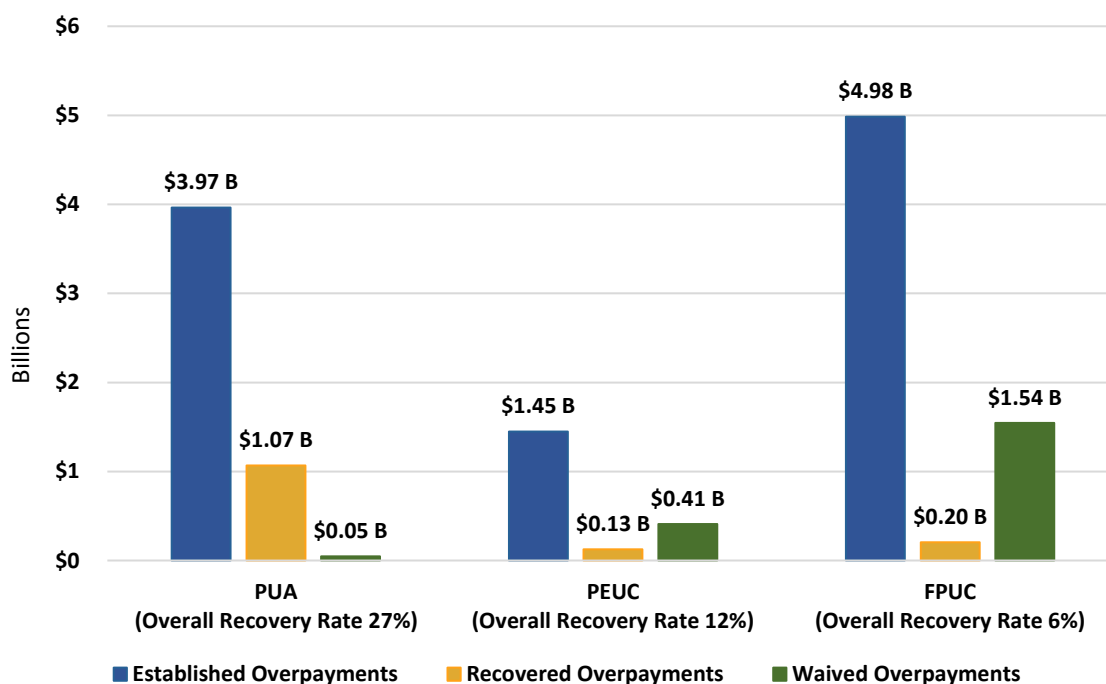
To calculate the recovery rates, we used the data submitted by SWAs on ETA required reports that were available on ETA's website. However, we observed

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<sup>12</sup> The UI overpayment recovery core measure is the percentage of the amount of overpayments recovered, divided by the (amount of overpayments established, minus overpayments waived). More information is available at: [https://oui.doleta.gov/unemploy/pdf/Core\\_Measures.pdf](https://oui.doleta.gov/unemploy/pdf/Core_Measures.pdf)

some SWAs did not report all of their overpayment activity, as required.<sup>13</sup> For example, based on reported data as of January 5, 2023, the Connecticut and New Jersey SWAs had not reported any overpayments for the PUA program and FPUC program, respectively, for the period from April 1, 2020, to September 30, 2022. Based on data reported to ETA, the selected SWAs' recovery rates were 27 percent, 12 percent, and 6 percent, for the PUA, PEUC, and FPUC programs, respectively. Figure 2 shows the amounts of established overpayments, recovered overpayments, and waived overpayments for the 10 audited SWAs for the three key pandemic-related UI programs, respectively, in billions of dollars.

**Figure 2: Overall Recovery Rates for the 10 Audited SWAs  
April 1, 2020, through September 30, 2022**



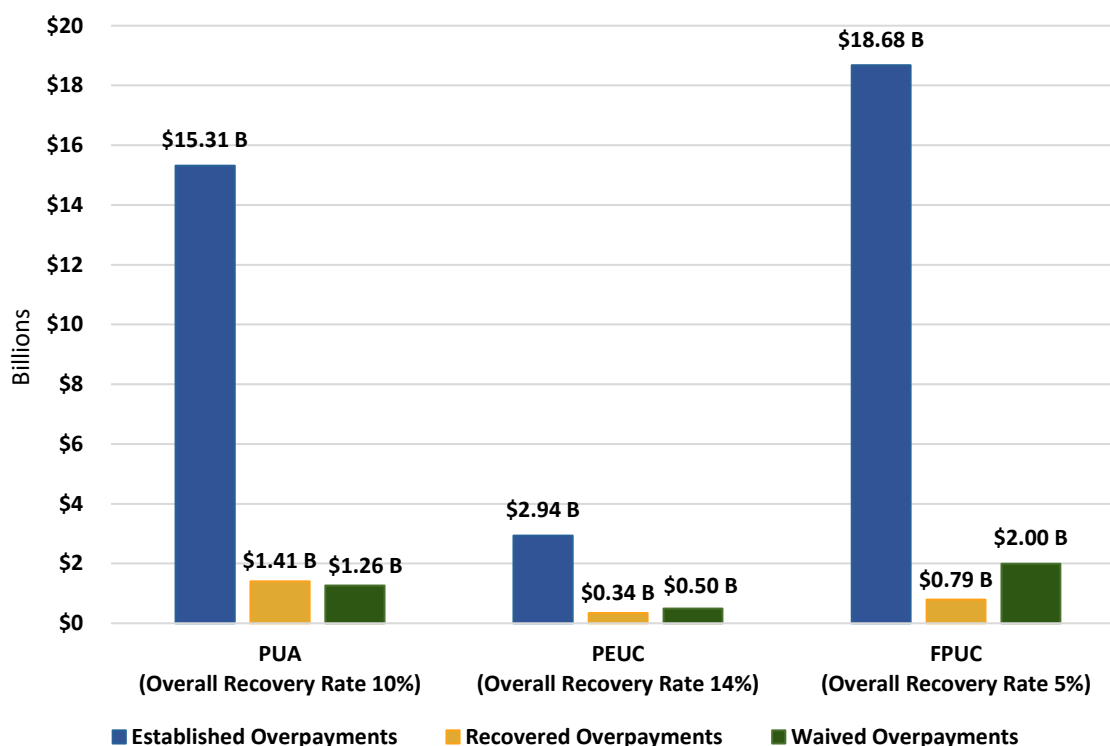
Source: Regis analysis of information reported by SWAs (see Exhibit 1 for source data).

Compared to the 10 audited SWAs, the recovery rates for all SWAs across the country were similarly low at 10 percent, 14 percent, and 5 percent for the PUA, PEUC, and FPUC programs, respectively. Figure 3 shows the amounts of

<sup>13</sup> This was consistent with what the OIG had previously reported on the Alert Memorandum: The Employment and Training Administration Needs to Ensure State Workforce Agencies Report Activities Related to CARES Act Unemployment Insurance Programs, Report No. 19-22-004-03-315 (August 2, 2022), available at: <https://www.oig.dol.gov/public/reports/oa/2022/19-22-004-03-315.pdf>

established overpayments, recovered overpayments, and waived overpayments for all SWAs for the three key pandemic-related UI programs, respectively, in billions of dollars.

**Figure 3: Overall Recovery Rates for All SWAs  
April 1, 2020, through September 30, 2022**



Source: Regis analysis of information reported by SWAs (see Exhibit 3 for source data)

We also evaluated the non-fraudulent and fraudulent overpayment activities and recovery rates for the PUA, PEUC, and FPUC programs for the 10 audited SWAs and for all SWAs. For the 10 audited SWAs, we noted a total of \$676.3 million of fraudulent overpayments was established, of which \$40.9 million was recovered (see Exhibit 2). For all SWAs, we noted a total of \$3.6 billion of fraudulent overpayments was established, of which a total of \$145.3 million was recovered (see Exhibit 4).

Based on the data reported to ETA, we determined SWAs recovered fraudulent overpayments at a much lower rate than non-fraudulent overpayments. Fraudulent payments—especially those involving identity theft where SWAs had not identified the individuals that perpetrated the fraud—were especially difficult to recover due to the investigative and legal processes that must first be

completed to confirm the fraud and hold the perpetrators accountable. The PUA program was particularly vulnerable to fraud because the program initially allowed claimants to self-certify their eligibility for benefits without requiring verification of identity or evidence of employment or self-employment. For the 10 audited SWAs, we found that, out of the three key pandemic-related UI programs, the PUA fraud recovery rate was the lowest at 4 percent while inversely having the highest non-fraud recovery rate at 30 percent (Exhibit 2). For all SWAs, we found the PUA fraud recovery rate was the lowest at 2 percent, while it had the second highest non-fraud recovery rate at 11 percent (Exhibit 4).

Based on our analysis, we noted ETA and SWAs need to do more to improve the extremely low recovery rates. Our analysis showed SWAs have yet to establish a significant number of overpayments that should have been subject to recovery activities. This suggests that the recovery rates are far lower than we determined. Using the prevailing overpayment rates derived from ETA's Benefit Accuracy Measurement (BAM) program<sup>14</sup> for regular UI<sup>15</sup> and ETA's published PUA program overpayment rate<sup>16</sup>, we estimated that \$33.9 billion in overpayments should have been established for the 10 audited SWAs for the period from April 1, 2020, through September 30, 2022. This is much higher than the \$10.4 billion of overpayments reported by the 10 audited SWAs for that period. This indicates that approximately \$23.5 billion of potential overpayments were not established and, thus, were not pursued for collection. Exhibit 5 shows the estimated unestablished overpayments for the audited SWAs in further detail.

We performed a similar analysis for all SWAs and estimated \$118.1 billion in overpayments that should have been established for the period from April 1, 2020, through September 30, 2022, for the PUA, PEUC, and FPUC

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<sup>14</sup> The Benefit Accuracy Measurement program is designed to determine the accuracy of paid and denied claims in three major UI programs. It does this by reconstructing the UI claims process for samples of weekly payments and denied claims using data verified by trained investigators. More information is available at:

[https://oui.doleta.gov/unemploy/bam/2002/bam\\_fact.asp](https://oui.doleta.gov/unemploy/bam/2002/bam_fact.asp)

<sup>15</sup> There is no separate improper payment rate for the PEUC or FPUC programs. ETA indicated it is appropriate to apply the regular UI improper payment rate to both the PEUC and FPUC programs. PEUC is an extension of the regular UI program and serves the same population. The eligibility requirements for PEUC are generally the same as for the regular UI program. Furthermore, FPUC was an additional payment to individuals receiving other UI benefits.

<sup>16</sup> ETA released the results of its PUA program improper payment rates analysis in August 2023. ETA reported to the Office of Management and Budget that the PUA program had a total improper payment rate of 35.9 percent of which 17 percent was the overpayment rate. According to ETA, the separate review process it used to calculate the estimated PUA improper payment rate was not designed to produce a statistically valid rate for individual states or a small collection of states. However, we deemed the rate to be conservative given that PUA was more prone to fraud than regular UI because the PUA program initially allowed claimants to self-certify their eligibility for benefits, without requiring verification of identity or evidence of employment or self-employment.

programs. This amount is much higher than the reported established overpayments of \$36.9 billion. This indicates that approximately \$81.2 billion of potential overpayments were not established and, thus, were not pursued for collection. Exhibit 6 shows the estimated unestablished overpayments for all 53 SWAs.

According to ETA, the unestablished overpayments were in part the result of the time required to complete the investigative process necessary to establish overpayments. States may not establish overpayments until investigations have been completed and determinations have been made that the payments were improper. Further, proper notice of the overpayments must first be made to claimants.

Additionally, ETA officials stated overpayment establishment and recovery activity occurs later in time and is reported as of the date established—not the date the overpayment occurred. Also, the establishment of overpayments had been delayed in many states because states were initially focused on processing adjudications and appeals concerning eligibility before investigating and establishing overpayments.

During the pandemic, states made administrative decisions to meet the demand for UI benefits, as well as to comply with Congress' mandate to get benefits in the hands of claimants as quickly as possible. Several factors likely contributed to the disparity in the amount of estimated overpayments that should have been established in the audited states. Among others, these factors included workload backlogs, realignment of staff to claims-taking functions versus overpayment detection functions, and other administrative challenges.

ETA officials stated they remained committed to assisting states in working through backlogs and addressing recoveries of improper payments. However, state finality laws, discussed in the latter part of this report, may hinder the continued ability of SWAs to establish and recover overpayments related to the three key pandemic-related UI programs.



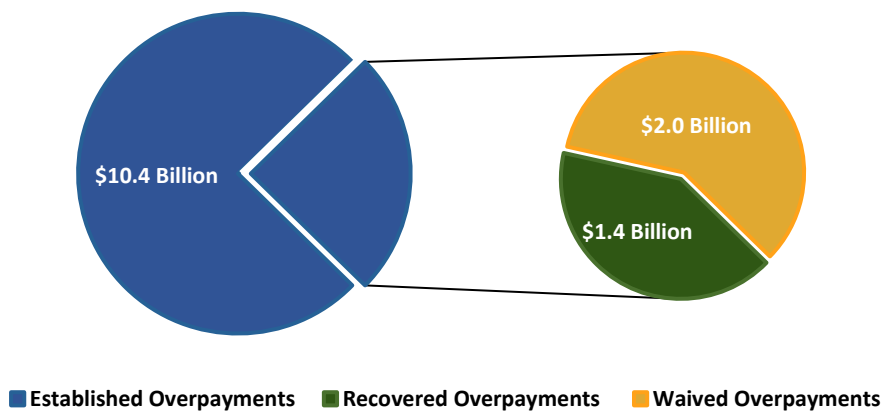
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## **SWAS Waived Recovery of Overpayments More Than They Recovered**

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During the period from April 1, 2020, through September 30, 2022, Regis found that the 10 audited SWAs waived more overpayments than they recovered. Specifically, of the \$10.4 billion in established overpayments, \$2 billion in overpayments were waived by states, versus the \$1.4 billion recovered (see Figure 4). Ultimately, SWAs paid billions of dollars in erroneous payments that could have been prevented with proper controls.

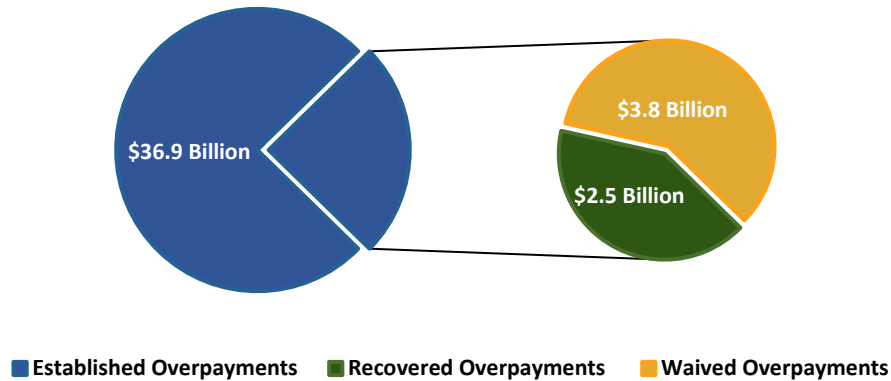
**Figure 4: Total Established, Recovered, and Waived Overpayments for the 10 Audited SWAs, from April 1, 2020, through September 30, 2022**



Source: Regis analysis of information reported by SWAs (see Exhibit 1 for source data)

Similarly, during the same period, SWAs across the nation—with a combined total of \$36.9 billion in established overpayments—waived more overpayments (\$3.8 billion) than they recovered (\$2.5 billion) (see Figure 5).

**Figure 5: Total Established, Recovered, and Waived Overpayments for All SWAs in the U.S., from April 1, 2020, through September 30, 2022**



Source: Regis analysis of information reported by SWAs (see Exhibit 3 for source data)

The CARES Act allows a SWA to waive the requirement to return overpayments of PUA, PEUC, and FPUC program benefits if the SWA determines that the benefit payments were not the fault of the claimant, and that such repayment would be contrary to equity and good conscience.

Further, ETA issued guidance to SWAs that identified seven circumstances for using blanket waivers.<sup>17</sup> All overpayments that fell within the seven circumstances and were not the fault of the claimant—and whose recovery would be contrary to equity and good conscience—could potentially be waived without requiring a review of the individual circumstances. However, SWAs are not required to separately report on the use of blanket waivers. As a result, it is difficult to determine to what degree SWAs have applied the blanket waiver authority to pandemic UI programs' overpayments. As stated earlier, to gain a comprehensive understanding of this topic, the OIG has initiated an audit focused on the impact of waivers, including blanket waivers, on the recovery of UI overpayments, including fraud.

Specifically, our audit found the need for controls to prevent duplicate payments, which were ultimately waived. This was exemplified by an instance in Pennsylvania. In July 2020, a third-party contractor made duplicate UI payments that amounted to approximately \$305 million under the PUA program and the

<sup>17</sup> ETA's guidance in Unemployment Insurance Program Letter No. 20-21 and Unemployment Insurance Program Letter No. 20-21, Change 1, provided SWAs with seven circumstances in which they could waive overpayments for many individuals who were eligible for waiver of repayment. These blanket waivers were applied to many individuals with the same set of facts instead of individually determining eligibility.

associated supplemental FPUC program. These payments were not the fault of the recipients, but the fault of the contractor that was hired to process benefits. Pennsylvania did not have an indemnification clause in its claims processing contract that required insurance coverage for errors or omissions caused by the contractor. Initially, the SWA attempted to recover these overpayments by offsetting them against subsequent claims. In the end, pursuant to ETA guidance on implementing blanket waivers under the CARES Act, the Pennsylvania SWA waived the remaining uncollected balance. This resulted in \$11 million in overpayments being waived by the SWA. SWAs' lack of adequate controls to prevent and detect improper payments, similar to the issue noted for Pennsylvania, create opportunities for greater loss to the UI program and taxpayers.

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### **SWAS Did Not Consistently Use Mandatory and Strongly Recommended Recovery Methods**

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ETA provided guidance to the SWAs under Unemployment Insurance Program Letter (UIPL) No. 23-20<sup>18</sup>, issued May 11, 2020, on both mandatory and strongly recommended overpayment recovery methods to be used for the PUA, PEUC, and FPUC programs. However, we found that, during the 12-month period from April 2020 through March 2021, 6 of the 10 SWAs reviewed did not perform all of the 4 mandatory recovery methods in at least 1 of the 3 federally-funded programs. Further, all 10 audited SWAs did not perform all of the 6 ETA strongly recommended recovery methods in at least 1 of the 3 federally-funded programs.

The results from our survey responses were like those of the audited SWAs for the same time period. Seven (44 percent) of the 16 SWAs that responded to the survey did not perform at least 1 of the 4 mandatory recovery methods. Fifteen (94 percent) of the 16 SWAs that responded to the survey did not perform at least 1 of the 6 ETA strongly recommended recovery methods during our audit period.

The four recovery methods mandated by law were as follows:

#### **1. Interstate Reciprocal Offset Recovery Arrangement**

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<sup>18</sup> UIPL No. 23-20, Program Integrity for the Unemployment Insurance (UI) Program and the UI Programs Authorized by the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 - Federal Pandemic Unemployment Compensation (FPUC), Pandemic Unemployment Assistance (PUA), and Pandemic Emergency Unemployment Compensation (PEUC) Programs (May 11, 2020)

2. Cross-Program Offset Recovery Agreement
3. Treasury Offset Program (TOP)
4. Benefit Offset

Additionally, the six recovery methods strongly recommended by ETA were as follows:

1. State Income Tax Offset Program
2. Wage Garnishments
3. Civil Actions
4. Property Liens
5. Collection Agency Referrals
6. Credit Bureau Referrals

Table 1 summarizes the number of audited SWAs that did not perform the mandatory and strongly recommended recovery methods.

**Table 1: Number of Overpayment Recovery Methods Not Performed by Audited SWAs**

Recovery Methods	Ten Audited SWAs		
	Program:		
	PUA	PEUC	FPUC
<b>Mandatory</b>			
Interstate Reciprocal Offset Recovery Arrangement	5	4	5
Cross-Program Offset Recovery Agreement	3	2	3
Treasury Offset Program	3	2	4
Benefit Offset	1	1	1
<b>ETA Strongly Recommended</b>			
State Income Tax Offset Program	2	2	2
Wage Garnishments	6	6	6
Civil Actions	5	5	5
Property Liens	7	7	7
Collection Agency Referrals	9	9	9
Credit Bureau Referrals	9	9	9

Source: Compiled using information provided by the selected SWAs

At the peak of the pandemic, during calendar year 2020, SWAs prioritized benefit payments over prevention, detection, and recovery activities. This was due to SWAs implementing new temporary programs while serving an unprecedented number of claimants. As previously mentioned, the high number of claims resulted in some SWAs shifting their staff resources from recovery activities to focus on claims payment. For instance, through state executive order, 3 of the 10 audited SWAs chose to suspend some collection activities to focus on getting UI benefits to claimants.<sup>19</sup>

Additionally, antiquated information systems that were not easily modifiable to accommodate the pandemic-related UI programs compounded some SWAs' challenges. According to the audited SWAs, one reason SWAs did not use the mandatory recovery methods was that they had not made the necessary system modifications to allow them to perform recovery activities.

SWAs indicated that one of the reasons they did not use the ETA strongly recommended recovery methods was because their state laws and regulations did not allow them to collect overpayments using those methods. For those states, legislation or other regulations would need to be passed for them to use those methods to collect overpayments. For example, some SWAs did not use the ETA strongly recommended State Income Tax Offset Program because their states did not levy state income taxes. Further, other SWAs did not use some of the ETA strongly recommended recovery methods because they did not deem the respective methods to be cost-effective.

DOL has limited authority to compel SWAs to use mandatory and strongly recommended procedures to prevent, detect, and recover overpayments, resulting in high improper payment rates during economic crises. ETA conducts monitoring activities of SWAs using historical data and issues findings to states for corrective action. ETA also uses the State Quality Service Plan process to hold states accountable for past performance deficiencies and to deal with open monitoring findings that have not been corrected. ETA's last resort against states that do not comply with mandatory UI activities is to withhold administrative funds. This action, however, would only occur after notice and hearing.

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<sup>19</sup> On March 30, 2020, Texas suspended the use of the mandatory Benefit Offset, TOP, and Cross-Program Offset Recovery Agreement recovery activities. These recovery activities were not reinstated until May 28, 2021. Washington suspended the use of wage garnishments, property liens, or civil actions during the period from March 2020 through April 6, 2021. Washington's use of these recovery activities resumed in the fall of 2021 with approval from the SWA's Commissioner and Deputy Commissioner. Rhode Island suspended the use of the state income tax offset program during the period from March 2020 through April 6, 2021, to allow its citizens to retain their tax returns during the COVID-19 pandemic.

It is notable that the temporary pandemic programs were not administered under the same laws as the regular UI program. Instead, through agreements with DOL, states administered the pandemic UI programs under the CARES Act, as amended. DOL could have terminated a state's agreement if it determined that the state was not complying with the requirements of the CARES Act or applicable guidance. However, this would have stopped delivery of temporary economic relief intended for those left unemployed by the COVID-19 pandemic.

DOL included a legislative proposal in the President's Fiscal Year 2024 and Fiscal Year 2025 budgets to provide the DOL Secretary with meaningful enforcement authority and the ability to reward good performance for the regular UI program. The proposal would provide DOL with alternative administrative options to withholding a state's entire administrative grant for failing to meet the performance measures or achieve minimum technology standards. Specifically, the proposal would allow the DOL Secretary to require a portion of the state's administrative grant to be used to correct failing performance and/or have the state participate in required technical assistance activities offered by DOL. DOL has also proposed allowing states to retain up to 5 percent of recovered fraudulent UI overpayments for program integrity use. For example, for states to increase detection and recovery of improper payments.

### **Limitations of Overpayment Recovery Methods**

Additionally, we found both federal and state laws and regulations limit how much SWAs could potentially collect on UI overpayments. When using TOP and Benefit Offset recovery methods, existing federal and state laws and regulations limit: (1) what types of overpayments can be recovered, (2) who can recover the overpayments, (3) when to collect the overpayments, and (4) how long overpayments can be recovered.

#### **Treasury Offset Program Limitations**

Federal law permits SWAs to collect certain UI overpayments using TOP. Under TOP, the U.S. Department of Treasury collects certain delinquent federal and state debts by intercepting federal income tax refunds. We identified three key legal restrictions on SWAs' ability to use TOP.



First, by law,<sup>20</sup> third-party contractors are prohibited from accessing TOP Federal Tax Information for recovering benefit overpayments. As a result, SWAs that use contractors to perform such recovery efforts may not be able to use TOP as an overpayment recovery method. For example, Pennsylvania used TOP to recover PEUC and FPUC program overpayments. However, it did not enroll the PUA program in TOP because the SWA's PUA program was operated from a stand-alone UI system that was created and maintained by a third-party contractor. Contractors played an essential role in SWAs' implementation of emergency pandemic UI programs and would likely be needed in handling benefit payments during future emergency programs. ETA indicated that DOL included a legislative proposal in the President's Fiscal Year 2024 and Fiscal Year 2025 budgets that would allow SWAs to use contractors to recover overpayments using TOP.

Second, SWAs can only use TOP when overpayments have been outstanding for at least 1 year. This is a concern because the sooner SWAs can initiate recovery activities, the more likely they are to recover overpayments. According to ETA, states can use other recovery methods before submitting a debt to TOP. ETA noted Congress intended TOP to be a recovery method of last resort to be used after all other methods were unsuccessful.

Third, SWAs must only use TOP to recover fraudulent overpayments, overpayments caused by the claimant's failure to report earnings, or delinquent unemployment compensation tax debt.<sup>21</sup> Legislative changes would need to address these limitations for TOP to be useful in circumstances like the exemplified overpayment error in Pennsylvania. ETA noted that Congress made a deliberate policy decision to limit the use of TOP to situations involving fraud and the other noted situations. According to ETA, the interception of an individual's federal tax refund in circumstances where the individual was not at fault or made unintentional errors would seem to be rather harsh.

#### Benefit Offset Program Limitations

Under the Benefit Offset recovery method, SWAs are required to offset any UI overpayments—paid under regular UI and other state and federal UI programs and not previously recovered—against UI benefits due to a claimant under

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<sup>20</sup> Contractors may access TOP Federal Tax Information under the authority established in 26 U.S.C. § 6103 for purposes of tax administration. However, no contractors may be granted access to TOP Federal Tax Information received under 26 U.S.C. § 6103(l)(10) for benefit administration.

<sup>21</sup> 26 U.S.C. § 6402(f)(4), Covered unemployment compensation debt.

states' UI law<sup>22</sup>. The CARES Act<sup>23</sup> did not allow SWAs to conduct Benefit Offset after 3 years from the date overpayments were received by claimants under the PEUC and FPUC programs. This 3-year limit does not apply to overpayments under the PUA program. Some states also have limitations on how long Benefit Offset can be applied against UI overpayments. According to ETA, Congress limited the duration of Benefit Offset as a matter of policy. ETA's concern with an unlimited timeframe for use of Benefit Offset is that, in the next recession when the economy is seeing a major infusion of funding into the economy, UI benefits for many individuals would be reduced or not available as they would be used to offset overpayments. ETA added there was a conscious decision to ensure the recovery policy did not have that type of impact in the next recession.

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### **State Finality Laws Restrict SWAs' Ability to Collect UI Overpayments**

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Many states have unemployment compensation laws, or finality laws, that limit the length of time during which they may reconsider a prior determination on a regular UI claim. In late December 2023, ETA issued UIPL No. 05-24<sup>24</sup>, which authorized SWAs to apply state finality laws to CARES Act-funded UI benefits. In doing so, ETA no longer required SWAs to perform retroactive actions to reconsider or re-determine prior determinations or decisions regarding whether benefits payments were proper. Therefore, if the period for reconsideration in the state's finality law has elapsed for any given claim, the SWA may no longer review if that claim was properly disbursed.

According to ETA, a state that is relying on its finality law in administering the CARES Act UI programs should evaluate its outstanding monitoring findings. If the state's finality law limits the extent of retroactive action necessary, the state should provide an explanation to the appropriate ETA Regional Office. The CARES Act allows SWAs to waive repayments of overpayments of PUA, PEUC, and FPUC program benefits if the SWA determines that the benefit payments were not the fault of the claimant, and that such repayment would be contrary to equity and good conscience.

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<sup>22</sup> UIPL No. 05-13, Work Search and Overpayment Offset Provisions Added to Permanent Federal Unemployment Compensation Law by Title II, Subtitle A of the Middle-Class Tax Relief and Job Creation Act of 2012 (January 10, 2013)

<sup>23</sup> Sections 2104(f)(3)(A) and 2107(e)(3)(A) of the CARES Act, as amended.

<sup>24</sup> UIPL No. 05-24, Application of State Finality Laws Regarding Temporary Unemployment Compensation (UC) Programs under the Coronavirus Aid, Relief, and Economic Security (CARES) Act (December 29, 2023)

However, for the PEUC and FPUC programs, the CARES Act also states SWAs “shall recover” improper payments within 3 years of the date of the improper payment in accordance with the same procedures as apply to the recovery of overpayments of regular unemployment benefits paid by the SWA. With ETA now permitting SWAs to defer to their state finality laws, any fraudulent improper payments that a SWA may have inadvertently waived for these programs will no longer be reviewable if the state finality law has elapsed. Additionally, improper payments that federal law would previously have required SWAs to collect will be unrecoverable. While the additional guidance provided in UIPL No. 05-24 is a policy decision within the purview of DOL, we are concerned about the implications of the UIPL from an investigative and oversight perspective.

We are concerned that, by applying state finality laws to the emergency pandemic funding, states will not have an incentive to identify overpayments and fraud in pandemic UI programs. Per UIPL No. 05-24, there are some states that have never operated certain CARES Act programs in compliance with federal laws, rules, or regulations. Further, as noted above, we found that the overpayment recovery rates for all SWAs, including the 10 we audited, were far below ETA’s core performance measure for regular UI paid from state trust funds. Specifically, the 10 audited SWAs and all SWAs waived more in overpayments than they recovered and the 10 audited SWAs and all SWAs established significantly less improper payments for recovery than what we calculated using the reported UI improper payment rate. Additionally, we found that all SWAs across the nation reported they established overpayments and recovered overpayments of approximately \$1.4 billion and \$293.8 million, respectively and collectively, in the first two calendar quarters of 2024 (see Exhibit 7). This further shows there is still a significant amount of overpayments yet to be established and recovered. Together, this information paints a concerning picture regarding the potential impact of improper payments on the American taxpayer if, due to finality laws, states stop identifying and recovering overpayments including potentially fraudulent overpayments.

DOL has the authority to continue requiring states to correct implementation errors in these programs, even in the face of state jurisdictional limitations. This authority is crucial in ensuring compliance with federal requirements and in the recovery of erroneously paid benefits. However, we are concerned that, instead of requiring states to fix their errors and come into compliance with federal law, this UIPL allows them to apply state finality laws so that millions of dollars in overpayments—potentially including fraud—will no longer be allowed to be reviewed.

While DOL’s guidance correctly states that recovery of fraudulent payments may not be waived, there is the possibility that states may have unintentionally waived or will waive fraudulent payments. ETA’s recent guidance regarding finality laws,

combined with the use of waivers, could result in a substantial increase in the amount of unrecovered improper payments, possibly including fraudulent payments, in pandemic-related UI programs. For PEUC and FPUC, waivers amplify the risk that deference to state finality laws presents. Specifically, by permitting states to waive improper payments that appear not to be the fault of the claimant—but which may in fact have been fraudulent—the SWAs are no longer required or permitted to reconsider determinations on PEUC and FPUC overpayments if their state finality law has elapsed. Further, while the application of state finality laws does not prevent law enforcement agencies from investigating and prosecuting fraud, the initial detection of such cases is often the result of SWAs' programmatic oversight activities. If state agencies are relieved from their obligation to look into cases beyond the finality period, a significant number of fraud cases might go undetected and, consequently, unprosecuted.

According to ETA, the application of finality laws was allowed with the goal of enabling states to concentrate their energies and resources on adjudicating current claims. Also, ETA's aim was to help states engage in DOL's modernization and fraud prevention efforts to ensure they will be prepared in the event of a future economic downturn. We recognize this change in policy signals a shift in focus from retrospective correction and recovery to a more forward-looking approach. While we agree such a focus is undoubtedly important, and within DOL's programmatic authority, it should not come at the cost of SWAs ceasing to detect and address ongoing or past instances of overpayment and fraud. These improper payment recovery activities are crucial for maintaining the integrity of the unemployment benefits system and public trust in these programs.

## **RECOMMENDATIONS**

We recommend the Assistant Secretary for Employment and Training:

1. Develop lessons learned based on the control failures identified by SWAs that led them to request the use of blanket waivers for overpayments. Provide SWAs with guidance, technical assistance, and other resources, as needed, to address the root causes of overpayments.
2. Require SWAs to use all mandatory recovery methods permitted under federal law and provide resources, as needed, for SWAs to use ETA's strongly recommended recovery methods.

3. Continue to work with Congress to lift restrictions on the use of contractors for the Treasury Offset Program recovery method.
4. Continue to work with Congress to develop incentives for SWAs to:  
(1) detect and address ongoing or past instances of overpayment and fraud, and (2) recover federally-funded UI overpayments.

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### **Analysis of Agency's Comments**

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The OIG issued a draft of this report to ETA officials for comment in December 2024. Due to recent senior leadership changes, ETA was unable to provide a timely response. As such, we are issuing the final report without ETA's response. Upon receipt of a response from ETA, we will post it, along with our analysis of management's comments, on our website.

We appreciate the cooperation and courtesies ETA extended to us during this audit.

*Regis & Associates, PC*

Regis & Associates, PC  
Washington, DC

March 27, 2025

**EXHIBIT 1: OVERALL RECOVERY RATES FOR 10 AUDITED SWAS  
– APRIL 1, 2020, THROUGH SEPTEMBER 30, 2022**

Program	Established Overpayments (a)	Recovered Overpayments (b)	Waived Overpayments (c)	Recovery Rate (d=b/(a-c))
PUA	\$3,965,073,493	\$1,068,614,533	\$47,983,537	27%
PEUC	\$1,448,071,174	\$126,993,172	\$408,191,812	12%
FPUC	\$4,983,515,777	\$203,382,816	\$1,544,393,781	6%
<b>Grand Total</b>	<b>\$10,396,660,444</b>	<b>\$1,398,990,521</b>	<b>\$2,000,569,130</b>	<b>17%</b>

Source: Compiled and calculated using data obtained from ETA reports submitted by SWAs. The data was downloaded from the ETA website at: <https://oui.doleta.gov/unemploy/DataDownloads.asp> (last accessed on January 5, 2023). We observed that some SWAs did not report all their activity.



**EXHIBIT 2: NON-FRAUDULENT AND FRAUDULENT RECOVERY  
RATES FOR 10 AUDITED SWAS – APRIL 1, 2020, THROUGH  
SEPTEMBER 30, 2022**

<b>Non-fraudulent</b>				
<b>Program</b>	<b>Established Overpayment (a)</b>	<b>Recovered Overpayments (b)</b>	<b>Waived Overpayments (c)</b>	<b>Recovery Rates (d=b/(a-c))</b>
PUA	\$3,510,163,746	\$1,051,229,032	\$47,983,537	<b>30%</b>
PEUC	\$1,398,190,980	\$121,303,792	\$408,191,812	<b>12%</b>
FPUC	\$4,812,002,762	\$185,606,465	\$1,544,393,781	<b>6%</b>
<b>Grand Total</b>	<b>\$9,720,357,488</b>	<b>\$1,358,139,289</b>	<b>\$2,000,569,130</b>	<b>18%</b>

<b>Fraudulent</b>				
<b>Program</b>	<b>Established Overpayment (a)</b>	<b>Recovered Overpayments (b)</b>	<b>Waived Overpayments (c)</b>	<b>Recovery Rates (d=b/(a-c))</b>
PUA	\$454,909,747	\$17,385,501	\$0	<b>4%</b>
PEUC	\$49,880,194	\$5,689,380	\$0	<b>11%</b>
FPUC	\$171,513,015	\$17,776,351	\$0	<b>10%</b>
<b>Grand Total</b>	<b>\$676,302,956</b>	<b>\$40,851,232</b>	<b>\$0</b>	<b>6%</b>

Source: Compiled and calculated using data obtained from ETA reports submitted by SWAs.

The data was downloaded from the ETA website at:

<https://oui.doleta.gov/unemploy/DataDownloads.asp> (last accessed on January 5, 2023). We observed that some SWAs did not report all their activity.

**EXHIBIT 3: OVERALL RECOVERY RATES FOR ALL SWAS – APRIL 1, 2020, THROUGH SEPTEMBER 30, 2022**

Program	Total Benefits Paid	Established Overpayments (a)	Recovered Overpayments (b)	Waived Overpayments (c)	Recovery Rate (d=b/(a-c))
PUA	\$131,139,943,797	\$15,313,419,977	\$1,408,453,706	\$1,259,686,564	10%
PEUC	\$85,743,787,494	\$2,938,287,156	\$342,141,353	\$497,872,012	14%
FPUC	\$441,598,718,343	\$18,677,073,667	\$792,744,134	\$1,995,849,818	5%
<b>Grand Total</b>	<b>\$658,482,449,634</b>	<b>\$36,928,780,800</b>	<b>\$2,543,339,193</b>	<b>\$3,753,408,394</b>	<b>8%</b>

Source: Compiled and calculated using data obtained from ETA reports submitted by SWAs.

The data was downloaded from the ETA website at:

<https://oui.doleta.gov/unemploy/DataDownloads.asp> (last accessed on January 5, 2023). We observed that some SWAs did not report all their activity.

**EXHIBIT 4: NON-FRAUDULENT AND FRAUDULENT RECOVERY  
RATES FOR ALL SWAS – APRIL 1, 2020, THROUGH  
SEPTEMBER 30, 2022**

<b>Non-Fraudulent</b>				
<b>Program</b>	<b>Established Overpayment (a)</b>	<b>Recovered Overpayments (b)</b>	<b>Waived Overpayments (c)</b>	<b>Recovery Rates (d=b/(a-c))</b>
PUA	\$13,685,540,297	\$1,369,010,168	\$1,259,686,564	<b>11%</b>
PEUC	\$2,738,588,893	\$312,398,940	\$497,872,012	<b>14%</b>
FPUC	\$16,902,020,071	\$716,675,885	\$1,995,849,818	<b>5%</b>
<b>Grand Total</b>	<b>\$33,326,149,261</b>	<b>\$2,398,084,993</b>	<b>\$3,753,408,394</b>	<b>8%</b>

<b>Fraudulent</b>				
<b>Program</b>	<b>Established Overpayment (a)</b>	<b>Recovered Overpayments (b)</b>	<b>Waived Overpayments (c)</b>	<b>Recovery Rates (d=b/(a-c))</b>
PUA	\$1,627,879,680	\$39,443,538	\$0	<b>2%</b>
PEUC	\$199,698,263	\$29,742,413	\$0	<b>15%</b>
FPUC	\$1,775,053,596	\$76,068,249	\$0	<b>4%</b>
<b>Grand Total</b>	<b>\$3,602,631,539</b>	<b>\$145,254,200</b>	<b>\$0</b>	<b>4%</b>

Source: Compiled and calculated using data obtained from ETA reports submitted by SWAs.

The data was downloaded from the ETA website at:

<https://oui.doleta.gov/unemploy/DataDownloads.asp> (last accessed on January 5, 2023). We observed that some SWAs did not report all their activity.

# **EXHIBIT 5: ESTIMATED UNESTABLISHED OVERPAYMENTS FOR 10 AUDITED SWAS – APRIL 1, 2020, THROUGH SEPTEMBER 30, 2022**

<b>Program</b>	<b>Total Benefits Paid (a)</b>	<b>Established Overpayments (b)</b>	<b>Estimated Overpayments (c=a*Overpayment Rate<sup>25</sup>)</b>	<b>Estimated Unestablished Overpayments (d=c-b)</b>
PUA	\$31,671,115,660	\$3,965,073,493	\$5,384,089,662	<b>\$1,419,016,169</b>
PEUC	\$29,368,199,385	\$1,448,071,174	\$5,813,537,187	<b>\$4,365,466,013</b>
FPUC	\$115,056,311,069	\$4,983,515,777	\$22,696,530,260	<b>\$17,713,014,483</b>
<b>Grand Total</b>	<b>\$176,095,626,114</b>	<b>\$10,396,660,444</b>	<b>\$33,894,157,109</b>	<b>\$23,497,496,665</b>

Source: Compiled and calculated using data obtained from ETA reports submitted by SWAs. The data was downloaded from the ETA website at:

<https://oui.doleta.gov/unemploy/DataDownloads.asp> (last accessed on January 5, 2023). We observed that some SWAs did not report all their activity.

<sup>25</sup> We applied the ETA-determined overpayment rate of 17 percent for the PUA program to the total benefits paid by each of the audited SWAs. This overpayment rate was part of the ETA-determined PUA improper payment rate. The PUA improper payment rate report is available at:

[https://oui.doleta.gov/unemploy/pdf/Pandemic\\_Unemployment\\_Assistance\\_Improper\\_Payment\\_Rate\\_Report.pdf](https://oui.doleta.gov/unemploy/pdf/Pandemic_Unemployment_Assistance_Improper_Payment_Rate_Report.pdf). We obtained the overpayment rates for PEUC and FPUC from the improper payments rates data available on the ETA website at:

<https://www.dol.gov/agencies/eta/unemployment-insurance-payment-accuracy/data>. For the PEUC and FPUC program, we applied the 2021, 1-year overpayment rates data for each state to each SWAs' benefits paid for the period from April 1, 2020, through June 30, 2021. For the period from July 1, 2021, through September 30, 2022, we applied the 2022, 1-year overpayment rates data for each state to each SWAs' PEUC and FPUC benefits paid.

# **EXHIBIT 6: ESTIMATED UNESTABLISHED OVERPAYMENTS FOR ALL SWAS – APRIL 1, 2020, THROUGH SEPTEMBER 30, 2022**

<b>Program</b>	<b>Total Benefits Paid (a)</b>	<b>Established Overpayments (b)</b>	<b>Estimated Overpayments (c=a*Overpayment Rate<sup>26</sup>)</b>	<b>Estimated Unestablished Overpayments (d=c-b)</b>
PUA	\$131,139,943,797	\$15,313,419,977	\$22,293,790,445	<b>\$6,980,370,468</b>
PEUC	\$85,743,787,494	\$2,938,287,156	\$15,577,156,131	<b>\$12,638,868,975</b>
FPUC	\$441,598,718,343	\$18,677,073,667	\$80,231,818,818	<b>\$61,554,745,151</b>
<b>Grand Total</b>	<b>\$658,482,449,634</b>	<b>\$36,928,780,800</b>	<b>\$118,102,765,395</b>	<b>\$81,173,984,595</b>

Source: Compiled and calculated using data obtained from ETA reports submitted by SWAs. The data was downloaded from the ETA website at:

<https://oui.doleta.gov/unemploy/DataDownloads.asp> (last accessed on January 5, 2023). We observed that some SWAs did not report all their activity.

<sup>26</sup> We applied the ETA-determined overpayment rate of 17 percent for the PUA program to the total benefits paid by all SWAs. This overpayment rate was part of the ETA-determined PUA improper payment rate. The PUA improper payment rate report is available at: [https://oui.doleta.gov/unemploy/pdf/Pandemic\\_Unemployment\\_Assistance\\_Improper\\_Payment\\_Rate\\_Report.pdf](https://oui.doleta.gov/unemploy/pdf/Pandemic_Unemployment_Assistance_Improper_Payment_Rate_Report.pdf). We obtained the overpayment rates used for PEUC and FPUC from the improper payments rates data available on the ETA website at: <https://www.dol.gov/agencies/eta/unemployment-insurance-payment-accuracy/data>. For the PEUC and FPUC program, we applied the 2021, 1-year national average overpayment rate of 18.17 percent to all SWAs' benefits paid for the period from April 1, 2020, through June 30, 2021. For the period from July 1, 2021, through September 30, 2022, we applied the 2022, 1-year national average overpayment rate of 18.15 percent to all SWAs' PEUC and FPUC benefits paid.

**EXHIBIT 7: OVERALL OVERPAYMENT ACTIVITY FOR ALL SWAS –  
JANUARY 1, 2024, THROUGH JUNE 30, 2024**

Program	Established Overpayments	Recovered Overpayments
PUA	\$405,506,955	\$83,726,463
PEUC	\$116,726,769	\$45,660,824
FPUC	\$927,538,254	\$164,440,683
<b>Grand Total</b>	<b>\$1,449,771,978</b>	<b>\$293,827,970</b>

Source: Compiled and calculated using data obtained from ETA reports submitted by SWAs.

The data was downloaded from the ETA website at:

<https://oui.doleta.gov/unemploy/DataDownloads.asp> (last accessed on September 16, 2024).

We observed that some SWAs did not report all their activity.



## **APPENDIX A: SCOPE AND METHODOLOGY**

### **Scope**

The audit covered ETA's and SWAs' efforts to recover improper payments in the three key pandemic-related UI programs—PUA, PEUC, and FPUC. Additionally, analyses of recovery activities for the period from April 1, 2020, through September 30, 2022, were also performed using data reported by the SWAs on ETA required reports. There were 10 states selected by the OIG (at least 1 from each of the 6 ETA regions) for in-depth examination. These states were Connecticut, Florida, New Jersey, North Carolina, Pennsylvania, Rhode Island, South Carolina, Texas, Washington, and Wisconsin. In addition, survey questionnaires were sent to the remaining 43 states to obtain key information about their efforts to recover improper payments.

### **Methodology**

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

To answer our audit objective, we:

- reviewed federal and state regulations, policies, and procedures,
- conducted walk-throughs and interviewed key management and personnel from ETA and SWAs,
- designed audit procedures to test ETA's and SWAs' efforts on recovering improper payments, and
- downloaded key ETA reports and analyzed the recovery-related data.

### **Internal Controls**

In planning and performing the audit, we obtained an understanding of ETA's and SWAs' internal controls that were considered significant to the audit objective. We used our understanding of the internal controls to help design audit procedures relevant to the audit objective and not to provide assurance on the internal controls. Consequently, we did not express an opinion on ETA's or SWAs' internal controls. Our consideration of internal controls for recovering improper payments would not necessarily disclose all matters that might rise to the level of significant deficiencies.

Our approach for this performance audit was a risk-based methodology. This approach ensured that we deployed resources to the most vulnerable areas of waste, fraud, and abuse, while minimizing any redundant efforts.

We obtained and documented an understanding of ETA's and the reviewed SWAs' relevant policies, procedures, and related controls, including identifying risks related to:

- the nature of operations,
- structure, oversight, and governance,
- activities and external environment, including the regulatory, economic, political, and social environment,
- specific risks related to the implementation of the CARES Act-related programs,
- root causes resulting in improper benefit payments (i.e., fraudulent payments, overpayments, and the inability of SWAs to validate initial and ongoing program eligibility requirements), and
- other challenges (i.e., program fraud, fraud vulnerabilities, information technology systems, staffing, and monitoring).

Additionally, if general information technology and information systems controls were determined to be significant to meet the objective of our audit, we obtained a sufficient understanding of the information systems controls necessary to assess audit risk and plan our audit procedures within the context of the audit objectives.

### Selection of States

The OIG judgmentally selected the 10 states for an in-depth review based on 10 risk factors. These risk factors included total federal UI funding, the amount of improper UI payments and improper UI payment rates, number of UI claims filed, and UI fraud rate. The states selected must have signed agreements with ETA under Section 2104(b) of the CARES Act. In selecting the states, the OIG also considered whether a state had been selected in previous OIG audits focusing on UI programs. We conducted an in-depth examination of the 10 states selected by the OIG. In addition, we sent surveys to 43 states that had signed CARES Act-related agreements with ETA under Section 2104(b) of the CARES Act—16 states<sup>27</sup> responded to the surveys.

### Sampling

We applied non-statistical sampling to verify compliance with the CARES Act, Continued Assistance Act, and ARPA. To test controls and compliance with

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<sup>27</sup> The 16 states included Alaska, Colorado, Delaware, District of Columbia, Georgia, Iowa, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New York, South Dakota, and West Virginia.

rules and regulations, we used an approach prescribed in the generally accepted government auditing standards to judgmentally<sup>28</sup> select a sample from benefit payments and reports submitted to ETA.

### Data Reliability

We corroborated the pandemic-related UI programs' data obtained from the ETA website with source data received from the SWAs. Data on benefit payment overpayments, along with waiver and recovery of overpayments, was obtained from summaries of required reports that SWAs submitted to ETA.

### Criteria

- Coronavirus Aid, Relief, and Economic Security (CARES) Act, Public Law 116-136 (March 27, 2020)
- Consolidated Appropriations Act, 2021, including Division N, Title II, Subtitle A, the Continued Assistance for Unemployed Workers Act of 2020 (December 27, 2020)
- American Rescue Plan Act of 2021 (ARPA), including Title IX, Subtitle A, Crisis Support for Unemployed Workers, Public Law 117-2 (January 3, 2021)
- UIPL No. 15-20, CARES Act of 2020 -- Federal Pandemic Unemployment Compensation (FPUC) Program Operating, Financial, and Reporting Instructions (April 4, 2020)
- UIPL No. 16-20, CARES Act of 2020 -- Pandemic Unemployment Assistance (PUA) Program Operating, Financial, and Reporting Instructions (April 5, 2020)
- UIPL No. 17-20, CARES Act of 2020 -- Pandemic Emergency Unemployment Compensation (PEUC) Program Operating, Financial, and Reporting Instructions (April 10, 2020)
- UIPL No. 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, Pandemic Unemployment Assistance, and Pandemic Emergency Unemployment Compensation Programs (May 11, 2020)
- UIPL No. 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)

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<sup>28</sup> Judgmental sampling is a non-probability sampling technique in which the sample members are chosen based on the auditor's knowledge and judgment.

- UIPL No. 09-21, Continued Assistance for Unemployed Workers Act of 2020 -- Summary of Key Unemployment Insurance (UI) Provisions (December 30, 2020)
- UIPL No. 05-24, Application of State Finality Laws Regarding Temporary Unemployment Compensation (UC) Programs under the Coronavirus Aid, Relief, and Economic Security (CARES) Act (December 29, 2023)

#### Prior Relevant Coverage

During the last 3 years, the OIG issued 8 reports of significant relevance to the subject of this report. Those reports are as follows:

1. COVID-19: ETA Needs a Plan to Reconcile and Return to the U.S. Treasury Nearly \$5 Billion Unused by States for a Temporary Unemployment Insurance Program  
Report No. 19-23-015-03-315 (September 28, 2023) available at:  
<https://www.oig.dol.gov/public/reports/oa/2023/19-23-015-03-315.pdf>
2. COVID-19: Pandemic Unemployment Assistance for Non-Traditional Claimants Weakened by Billions in Overpayments, Including Fraud  
Report No. 19-23-014-03-315 (September 27, 2023) available at:  
<https://www.oig.dol.gov/public/reports/oa/2023/19-23-014-03-315.pdf>
3. COVID-19: Audit of State Workforce Agencies' Information Technology Systems Capability in Processing Unemployment Insurance Claims  
Report No. 19-23-008-03-315 (September 19, 2023) available at:  
<https://www.oig.dol.gov/public/reports/oa/2023/19-23-008-03-315.pdf>
4. COVID-19: ETA and States Did Not Protect Pandemic-Related UI Funds from Improper Payments Including Fraud or from Payment Delays  
Report No. 19-22-006-03-315 (September 30, 2022) available at:  
<https://www.oig.dol.gov/public/reports/oa/2022/19-22-006-03-315.pdf>
5. COVID-19: States Struggled to Implement CARES Act Unemployment Insurance Programs  
Report No. 19-21-004-03-315 (May 28, 2021), available at:  
<https://www.oig.dol.gov/public/reports/oa/2021/19-21-004-03-315.pdf>
6. COVID-19: More Can Be Done to Mitigate Risk to Unemployment Compensation under the CARES Act  
Report No. 19-20-008-03-315 (August 7, 2020), available at:  
<https://www.oig.dol.gov/public/reports/oa/2020/19-20-008-03-315.pdf>

7. Alert Memorandum: The Pandemic Unemployment Assistance Program Needs Proactive Measures to Detect and Prevent Improper Payments and Fraud  
Report No. 19-20-002-03-315 (May 26, 2020), available at:  
<https://www.oig.dol.gov/public/reports/oa/2020/19-20-002-03-315.pdf>
8. Advisory Report, CARES Act: Initial Areas of Concern Regarding Implementation of Unemployment Insurance Provisions  
Report No. 19-20-001-03-315 (April 21, 2020), available at:  
<https://www.oig.dol.gov/public/reports/oa/2020/19-20-001-03-315.pdf>

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