United States General Accounting Office

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Report to the Chairman, Subcommittee on Human Resources, Committee on Ways and Means, House of Representatives

July 2002

UNEMPLOYMENT INSURANCE

Increased Focus on Program Integrity Could Reduce Billions in Overpayments

G A O

Accountability * Integrity * Reliability

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Abbreviations

BAM	Benefit Accuracy Measurement
BPC	Benefit Payment Control
DI	Disability Insurance
DLC	Desired Levels of Achievement
ITSC	Information Technology Support System
NDNH	National Directory of New Hires
OASI	Old Age and Survivors Insurance
OIG	Office of Inspector General
SOLQ	State Online Query system
SQSP	State Quality Service Plan
SSA	Social Security Administration
SSN	Social Security Number
UI	Unemployment Insurance
WIA	Workforce Investment Act
WRIS	Wage Record Interchange System

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United States General Accounting Office
Washington, DC 20548

July 12, 2002

The Honorable Wally Herger
Chairman, Subcommittee on Human Resources
Committee on Ways and Means
House of Representatives

Dear Mr. Chairman:

The Department of Labor's Unemployment Insurance (UI) Program paid about $30 billion in benefits in calendar year 2001 to workers who lost their jobs. The UI program is a federal-state partnership designed to partially replace the lost earnings of individuals who become unemployed through no fault of their own and to stabilize the economy in times of economic recession. Each state taxes employers to finance a UI trust fund that can be drawn upon in economic downturns.[1] The health of each state's trust fund depends, in part, on the amount of taxes collected from employers; current economic conditions, such as the level of unemployment; and the ability of the state to control its benefit payments by accurately determining individuals' eligibility for UI benefits in a timely manner. Inaccurate or untimely eligibility information may contribute to overpayments and fraud and place unnecessary burdens on a state's trust fund. Overpayments include payments that should not have been made or were made for incorrect amounts.

In recent years, reports from Labor's Office of Inspector General (OIG) and others have identified numerous aspects of the UI program that may be vulnerable to overpayments and fraud. In light of the dramatic increase in the number of unemployed workers filing for UI benefits in the past year and the program's potential exposure to fraud and overpayments, you asked us to determine (1) the extent and type of overpayments in the UI program, including those that may be attributable to fraud or abuse; and (2) the factors that contribute to overpayments in the UI program, as well as actions taken by Labor to ensure program integrity.

[1] "State" in this report includes the 50 states as well as three non-state jurisdictions covered by the UI program—the District of Columbia, Puerto Rico, and the Virgin Islands.

To address these issues, we reviewed internal Labor guidance and documentation, performance plans and reports, as well as performance data relevant to Labor's oversight of the UI program. We also reviewed overpayment data from Labor's Benefit Accuracy Measurement (BAM) and Benefit Payment Control (BPC) systems. In addition, we conducted in-depth interviews with more than 100 management and line staff in Labor's headquarters and 6 regional offices, as well as UI officials in 6 states—California, Colorado, Illinois, Maryland, Massachusetts, and New York.[2] We selected these states based on numerous criteria, including performance data from the Department of Labor, size of their workforce, availability of overpayment detection and recovery tools, and geographic location. Finally, we spoke with other groups that are involved in unemployment insurance, such as employer representatives and the National Association of State Workforce Agencies. We performed our work between September 2001 and May 2002 in accordance with generally accepted government auditing standards.

Results in Brief

Of the $30 billion in UI benefits paid in calendar year 2001, the Department of Labor estimates that a total of about $2.4 billion in overpayments occurred, including about $577 million (24 percent) attributable to fraud or abuse. Labor's analysis suggests that the states could have potentially detected and/or recovered about $1.3 billion of the total overpayments that year given their current policies and procedures. Labor based these estimates on data from its quality assurance system. This system identifies numerous overpayment categories, including individuals who (1) receive UI benefits while working, (2) fail to register for employment services in their state, and (3) fail to look for a new job as required. Labor's quality assurance system estimate contrasts with the $650 million in overpayments reported by the states' benefit payment control systems in fiscal year 2001, including about $370 million in overpayments that were recovered. Our analysis suggests that Labor's quality assurance system estimate represents a more complete assessment of the true level of overpayments in the UI program than the amount reported by the states. This is primarily due to the fact that Labor's quality assurance estimate is based on a more comprehensive examination of individual UI claims than the states' benefit payment control process can generally produce.

[2] We also interviewed the Utah UI Director by telephone because this state has been utilizing some practices that other states could use to verify claimants' eligibility for UI benefits, such as on-line access to the Social Security Administration's State Online Query system to verify the validity of individuals' social security numbers.

Overpayments in the UI program result from management and operational practices we identified at both the state and federal level. At the state level, we found that many states do not sufficiently balance the need to quickly process and pay UI claims with the need to control program payments. For example, we found that five of the six states we visited had diverted staff from benefit payment control operations to claims processing activities over the past year in response to increases in the volume of UI claims. Moreover, while a number of states we visited routinely use independent automated data sources to verify key information that can affect claimants' eligibility for benefits—such as an individual's wages and employment status—they also rely heavily on self-reported information from claimants for other important data, such as a claimant's receipt of other federal or state program benefits and whether they are citizens of the United States. Many of these states lack access to data sources for verifying claimants' identity in a timely manner and thus rely on verification processes that are incomplete or information sources that are only checked periodically.

In addition to the practices we identified at the state level that contribute to overpayments, we found that policies and directives from the Department of Labor affect states' priorities and procedures in a manner that makes overpayments more likely. For example, the performance measures that Labor uses to gauge states' operations tend to emphasize payment timeliness more heavily than payment accuracy. Labor has also been reluctant to link the states' performance on payment accuracy to the annual administrative budget as a way of providing incentives or sanctions for good or poor performers. Despite these problems, we found that Labor has taken actions to improve UI program integrity by working to obtain data from additional sources that could help states make more accurate eligibility decisions and developing a performance measure in its fiscal year 2003 performance plan for gauging state payment accuracy in future years. While we recognize the importance of paying UI claimants in a timely manner, our work suggests that both Labor and the states could do more to reduce improper payments.

We are including recommendations in this report to the Secretary of Labor to improve Labor's use of existing management and operational tools that could encourage states to place greater emphasis on program integrity activities. These recommendations include better utilizing Labor's administrative authority to encourage states to place additional emphasis on program integrity activities, and studying the feasibility of using existing automated data sources to help states verify claimants' earnings and employment status, as well as UI benefits that they may be receiving

in other states. In its response to our draft report, Labor generally agreed with our recommendations, and identified a number of current and planned initiatives that it believes will address some of the issues we identified. Labor also provided a number of technical comments that we have incorporated into our draft report as appropriate.

Background

The UI program was established by Title III of the Social Security Act in 1935 and is a key component in ensuring the financial security of America's workforce. This complex program, which is administered jointly by the U.S. Department of Labor and the states, provides temporary cash benefits to workers who lose their jobs through no fault of their own. The program also serves to stabilize the economy in times of economic recession. Labor is responsible for overseeing the UI program to ensure that the states operate an effective and efficient Unemployment Insurance Program. Labor is also responsible for monitoring state operations and procedures, providing technical assistance and training, as well as analyzing UI program data to diagnose potential problems. To oversee the program, Labor's Employment and Training Administration maintains 10 offices in 6 geographic regions that are responsible for working with states in a specific geographic area (see fig.1).[3] The regional offices are the states' main point of contact with Labor and serve as a vital link between headquarters and the states for providing technical assistance and clarifying program policies, objectives, and priorities. Moreover, the regional offices have primary responsibility for overseeing the fiscal and management integrity of the UI program.

[3] Labor recognizes six regions, but some of these regions have administrative responsibility split between two cities. For example, Region 1 comprises both Boston, which oversees the New England states, and New York City, which has responsibility for New York State, New Jersey, Puerto Rico, and the Virgin Islands.

Figure 1: Regional Structure of the Department of Labor's Employment and Training Administration

Source: Department of Labor.

Although Labor provides oversight and guidance to ensure that each state operates its program in a manner that is consistent with federal guidelines, the federal-state structure of UI places primary responsibility for administering the program on the states. The states also have wide latitude to administer their UI programs in a manner that best suits their needs within the guidelines established by federal law. For example, to enhance the efficiency and cost-effectiveness of their UI systems, many states have established centralized service centers that allow claimants to apply for benefits by telephone, fax, or the Internet.

The UI program is funded through federal and state taxes levied on employers. The states collect the portion of the tax needed to pay unemployment insurance benefits, whereas state and federal administrative costs and other related federal costs of the UI program are financed through the federal tax. Labor holds these funds in trust on

behalf of the states in the Unemployment Trust Fund of the U.S. Treasury. To obtain annual UI administrative funding from Labor, states submit an annual request for funding as part of their State Quality Service Plan (SQSP).[4] Labor reviews each state's plan and subsequently determines if any adjustment in funding is required. The regional offices may also negotiate changes and revisions to the states' funding requests before the final allocation is approved. In fiscal year 2001, Labor provided about $2.3 billion to states to administer their programs.

To be eligible for UI benefits in most states, unemployed workers must fulfill five general conditions within overall federal guidelines. They must:

- have worked for a specified amount of time in a job that is covered by the unemployment insurance program;
- have left their prior jobs involuntarily (such as by employer layoff) or have quit their jobs for "good cause";
- be currently "able and available" for work, and, in most states, actively seeking work;
- enroll in employment services or job training programs (in some states); and
- be legally eligible to work—for example, noncitizens must be lawfully admitted to work in the United States, or lawfully present for other reasons.

Each state's laws provide specific requirements for claimants to meet these general conditions, and each state determines individual eligibility, the amount and duration of benefits, and disqualification provisions. Because Labor provides states with the flexibility to design their own UI program, the eligibility policies and laws governing the administration of the UI program vary from one state to another. In general, however, claimants apply for UI benefits over the telephone, via computer using the Internet, or in person at a local office.[5] State claims representatives are responsible for determining each claimant's eligibility for UI benefits by gathering and (when possible) verifying important information, such as their identity, employment history, why they no longer are working, and other sources of income they may have. Once the claim has been

[4] The SQSP is intended to be a management tool for states to ensure consistent performance as well as a mechanism for determining where resources should be placed.

[5] Traditionally, UI claims were filed in-person in employment offices; however, many states have transitioned to remote claims filing using telephone systems or the Internet.

submitted for processing, the state sends forms to the claimant's employer(s) requesting them to verify the claimant's wages and the reason they are no longer working. If the individual's claim for UI is approved, the state then determines the amount of UI benefits, depending on the individual's earnings during the prior year and other factors. UI benefits may be mailed to a claimant's home or post office box, or sent electronically to a bank account. In general, most states are expected to provide the first benefits to the claimant within 21 days of the date the state determined that the claimant was entitled to benefits.

Labor funds two principal kinds of activities for detecting and measuring UI overpayments at the state level—Benefit Payment Control and Benefit Accuracy Measurement. Each state is required to operate a benefit payment control division that is responsible for detecting and recovering overpayments. This process also involves reporting the reason for the overpayment—such as wages that the claimant failed to report. Each state is required to report overpayments along with other data to Labor on a quarterly basis. By contrast, Labor's benefit accuracy measurement data are an estimate of the total overpayments in the UI program—in each state and the nation as a whole—based on a statistically valid examination of a sample of paid and denied claims. Benefit accuracy measurement is one of the main quality assurance systems that Labor uses to measure payment accuracy in the program.

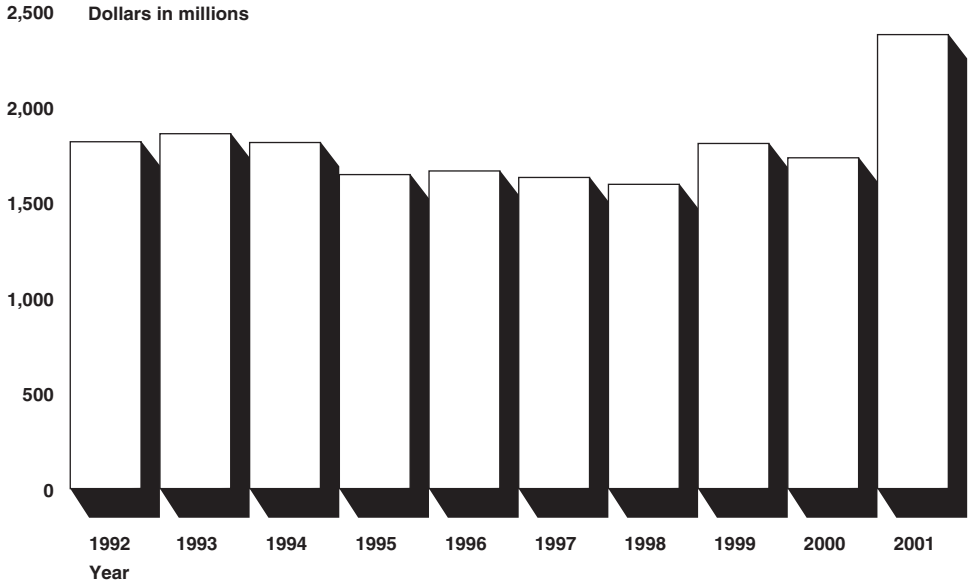
More than $2 Billion in Overpayments Estimated in 2001

Of the $30 billion in UI benefits paid nationwide in 2001, Labor estimates that about $2.4 billion in UI overpayments occurred.[6] About one-quarter of these overpayments ($577 million) were identified as fraud, according to its quality assurance data. Overpayments may occur because individuals work while receiving benefits, fail to register for employment services, fail to look for a new job, or misrepresent their identity. Other sources of overpayments include agency errors and inaccurate or untimely information provided by employers. Of the $2.4 billion in projected overpayments, Labor estimates that about $1.3 billion could have potentially been detected and/or recovered in 2001 given existing state procedures and policies. In contrast, the states reported that $650 million in overpayments were made in 2001, of which $370 million was actually recovered. Overall, Labor's overpayment estimate is about three times higher than that reported by the states. The difference in the overpayment

[6] UI benefit and overpayment data reflect calendar year 2001.

figures produced by the two systems can be attributed to the fact that Labor's quality assurance estimate is based on a more comprehensive examination of individual UI claims than the states' benefit payment control activities can generally produce. Our analysis suggests that Labor's quality assurance system estimate is a more complete assessment of the true level of overpayments in the UI program, partly because the system documents overpayments that often cannot be detected in many states using their existing benefit payment control procedures.[7]

Figure 2: Overpayments Estimated by Labor's Quality Assurance System, 1992 to 2001



Source: Labor's quality assurance data (2001).

Overpayments Have Changed Little During Last 10 Years

Over the past 10 years, the annual overpayment rate estimated by Labor's quality assurance system has remained fairly constant as a percentage of total benefits paid—ranging from a low of 8.0 percent in 2001 to 9.2 percent in 1999 and averaging about 8.5 percent during that period. Overpayments averaged about $1.8 billion per year and reaching a high of

[7] We are unable to assess the precision of these Department of Labor estimates.

about $2.4 billion in 2001. (See fig. 2.) The slight increase in overpayments estimated by the quality assurance system in 2001 is likely related to the overall increase in total UI benefits paid that year.

The overpayments estimated by Labor's quality assurance data fall into a number of categories. Some overpayments result from errors in claimants' reporting or the state agency's recording of important eligibility information, such as wages or other sources of income that a claimant obtained while receiving UI benefits ("benefit year earnings" violations). (See table 1.) Overpayments also occur because claimants are not able and/or available to work, fail to register for employment services as required by their state, or fail to look for a new job as required ("eligibility" violations). (See app. I.) The quality assurance data also classify overpayments as being "fraud" or "nonfraud". Fraud can occur when claimants intentionally misrepresent eligibility information, employers file fraudulent claims, or state UI program personnel abuse sensitive information such as social security numbers for personal gain. Of the total overpayments estimated by Labor in 2001, about $577 million (24 percent) were attributed to fraud. Although this estimate takes into account each state's individual laws, we found that the states differ substantially in how they define fraud. For example, some states may include overpayments resulting from unreported earnings as fraud, while other states do not. Thus, state-to-state comparisons of the level of fraud in the UI program and the activities that constitute fraud are difficult to make.

Table 1: Categories of Overpayments Estimated by Labor's Quality Assurance System (U.S. Totals for 2001)

Dollars in millions

Categories of overpayments	Fraud	Nonfraud	Total overpayment	Percent of total overpayments
Eligibility Issues—claimant was not eligible for UI benefits because they were (1) not able and available to work, (2) not actively searching for work, (3) an illegal alien, (4) not enrolled in employment services as required by state law, or (5) not eligible for other reasons.	$106.2	$757.2	$863.4	35
Benefit Year Earnings—errors in reported or unreported income that may affect claimants' eligibility for UI, including severance or vacation pay, and social security benefits.	326.6	437.9	764.5	31
Separation Issues—claimant became unemployed for reasons not covered by state or federal law for receipt of UI benefits including (1) voluntarily leaving employment, (2) being discharged or fired, and (3) other reasons.	126.2	386.1	512.3	21
Base Period Wages—errors in reporting/recording claimants' earnings or amount of work during the period in which eligibility is determined.	10.2	190.3	200.5	8
Dependent Issues—erroneous reporting/recording of dependents' information.	0. 2	24.6	24.8	1
Other Causes—errors due to other factors, such as benefits paid during a period of disqualification or reversal of benefits due to an appeals decision.	8.1	77.3	85.4	4
Total[a]	**$577.4**	**$1,873.5**	**$2,450.9**	**100**

Note: The overpayments are presented in categorical groupings as defined in Labor's Employment and Training (ET) Handbook 395.

[a]Total overpayments do not include data from Colorado and Puerto Rico.

Source: Labor's quality assurance data (2001).

Overall, the largest overpayment categories in 2001 were attributed to eligibility issues (35 percent), benefit year earnings (31 percent), and separation issues (21 percent). Federal and state officials told us that some categories of overpayments are more difficult to detect than others. For example, some officials told us that it can be difficult for states to accurately determine, in a cost-effective manner, if a claimant is actively searching for a job (an eligibility requirement in some states). In particular, there is not a readily available source of information that states can access for information on whether each claimant is actively looking for employment. Work search requirements vary considerably from state to state, and can have a substantial impact on state payment accuracy rates. Moreover, states generally lack sufficient resources to permit their benefit payment control personnel to conduct in-depth examinations of each claimant's activities to determine if they are eligible. States that have only a limited work search requirement (or no requirement at all) may not establish overpayments for UI claimants who fail to look for a new job. In

contrast, states with rigorous work search policies are more likely to establish overpayments for claimants who do not meet this requirement.

Although some categories of overpayments are more difficult than others to detect or recover, Labor's analysis suggests that the states could have potentially detected and recovered about $1.3 billion (54 percent) of the $2.4 billion in estimated overpayments in 2001. This estimate is based on Labor's analysis of the types of overpayment errors the states' benefit payment control operations were most likely to be able to identify and recover given their current policies and procedures. (See table 2.) In particular, states' benefit payment control activities tend to focus on detecting overpayments that result from unreported income (benefit year earnings or base wage period violations) and payments to individuals who are not entitled to UI benefits due to the circumstances under which they became unemployed (separation issues). For example, benefit payment control staff may use the "Wage/Benefit Crossmatch" to identify and examine claimants who received UI benefits during a week in which they appear to have earned wages.

Labor's analysis also suggests that other types of overpayments are likely to be detected by most states given their current policies and procedures. These include unreported or underreported income from social security programs, illegal aliens claiming benefits, and unreported vacation or severance pay. Furthermore, based on Labor's analysis, we believe that a substantial proportion of the overpayments detected by the states could be recovered using commonly available procedures such as offsetting claimants' current and future benefits and intercepting other sources of income such as state tax refunds. Labor determined that the remaining $1.1 billion in estimated overpayments could probably not be detected or recovered by the states due to limitations in their existing policies and procedures. For example, overpayments caused by state agency errors are generally not pursued for recovery. In contrast to Labor's estimate, the states reported about $653 million in overpayments in 2001—roughly half the total that Labor's quality assurance system identified. Moreover, at the time of our review, the states reported that they had recovered about $370 million of this amount.

Table 2: Overpayments That Labor Estimates Could Have Been Detected and Recovered in 2001

Dollars in millions

Categories of overpayment	Amount[a]
Benefit Year Earnings	$693.9
Separation Issues (including discharge and voluntary quit)	385.0
Able and Available	145.5
Social Security violations	34.3
Illegal Aliens	29.9
Dependency violation	17.8
Severance/Vacation Pay	27.1
Total	**$1,333.6**

[a]Total may not add due to rounding.

Source: Labor's quality assurance data (2001).

Labor's Quality Assurance System Data Provides a More Complete Representation of UI Overpayments

The quality assurance and the benefit payment control systems differ in the scope and the methods of the activities they use to identify overpayments. On the basis of our analysis as well as analysis performed by Labor's Division of Performance Management, we believe that Labor's quality assurance system data represent a more complete assessment of the true level of UI overpayments than the benefit payment control figure reported by the states. In particular, the quality assurance system is able to estimate all the potential overpayments that have occurred in each state's UI program because it is based on a statistically valid sample of UI claims from each state. Moreover, quality assurance investigators are able to conduct a more detailed, comprehensive analysis of each case they review than is typically possible for most states' benefit payment control operations. For example, the investigator is generally able to identify many types of overpayments because they can spend more time verifying the accuracy of the information provided to the state by personally contacting employers, claimants, and third parties. In addition, investigators typically spend between 5 and 8 hours examining a single case, which allows them to perform a relatively in-depth review of a claimant's eligibility. By contrast, the states' benefit payment control activities are often affected by operational and policy factors that limit their ability to detect and/or recover overpayments. These factors include limited staffing and funding, cost-benefit considerations (e.g., the costs associated with recovering an overpayment may be greater than the overpayment amount), and a lack of access to timely data sources. Moreover, benefit payment control personnel are required to quickly examine thousands of cases to identify

overpayments, thus potentially limiting their ability to thoroughly review cases for payment accuracy.

Overpayments Caused by Management and Operational Practices at the State and Federal Level

We identified various management and operational practices at both the state and federal level that contribute to UI overpayments. At the state level, we found that a number of states place primary emphasis on quickly processing and paying UI claims and may not take the necessary steps to adequately verify claimants' initial and continuing eligibility for benefits. In particular, five of the six states we visited were not fully staffing their benefit payment control operations and had moved staff to claims processing activities. In addition, while some of the states we visited use automated data sources to determine if claimants are working or obtaining other benefits while receiving UI, others rely heavily on self-reported information from claimants to make payment decisions.

States also tend to establish UI program policies and priorities in response to direction from the Department of Labor, which in some instances may contribute to overpayments. For example, the performance measures that Labor uses to gauge states' operations tend to emphasize payment timeliness more heavily than payment accuracy. In addition, Labor has been reluctant to link the states' performance on payment accuracy to the annual administrative funding process as a way of holding states accountable for performance. Labor has taken some actions to improve UI program integrity, such as working to obtain additional automated data sources that could help states make more accurate eligibility decisions and developing a payment accuracy performance measure. However, Labor and the states have not placed sufficient emphasis on balancing the often competing priorities of quickly processing and paying UI claims, with the need to ensure that only eligible individuals receive benefits.

States Place Main Emphasis on Quickly Processing and Paying UI Claims

The emphasis that an agency places on critical program activities can be measured, in part, by the level of staff and other resources devoted to those activities. Most of the states we visited placed primary emphasis on quickly processing and paying UI claims, with less attention given to program integrity operations. In particular, we found that program managers commonly moved staff assigned to program integrity activities (such as benefit payment control) to claims processing positions in response to increases in the number of UI claims being filed. For example, one state was using only 4 of the 16 positions (25 percent) it was allotted by Labor for benefit payment control. Only one of the six states we visited was fully staffing its benefit payment control operations. The remaining

states had transferred staff into other positions, including claims processing. Another state stopped drawing its quality assurance sample for a period of time and moved staff responsible for these operations into claims processing positions when unemployment claims increased during the third quarter of 2001.[8] Many federal and state officials we interviewed told us that states move staff into claims processing roles from other positions because they lack adequate funding to properly administer all the necessary activities of their UI programs. In this regard, some state officials told us that they anticipated additional funding from the federal government which they could use to increase the resources and staff dedicated to benefit payment control and other program integrity operations.[9] However, a number of officials told us that historically the UI program's primary objective has been to pay claimants in the most expeditious manner possible, and that this would continue to be a guiding principle of the program.[10]

States Vary in Their Use of Automation to Independently Verify Claimants' Information

While states differed in the level of staff and resources devoted to program integrity activities, we also found variation in the processes and tools they used to verify information that could affect a claimant's eligibility for UI benefits. The most important information requiring verification generally includes an individual's wages and employment status, receipt of other federal or state benefits, identity, and citizenship status. All of the states we visited conduct basic computer matches that help them to detect potential UI overpayments due to unreported earnings. For example, each state regularly conducts a Wage/Benefit Crossmatch that compares the database of UI claimants with the state's database of individuals' wages to

[8] Several state officials told us that the number of UI claims have increased since the terrorist attacks of September 11, 2001, and have forced them to move staff resources from benefit payment control or benefit accuracy measurement activities into claims taking positions.

[9] The Job Creation and Worker Assistance Act of 2002 provided up to a 13-week, federally funded extension of UI benefits for the states. In addition, the act provided for the distribution of about $8 billion to the states as part of the Employment Security Administrative Funding Act of 1954 (also referred to as the Reed Act). This $8 billion allocation is intended to strengthen state trust funds - allowing states to pay UI benefits without cutting benefit levels or increasing employer taxes. These funds also may be used to expand benefits and to pay administrative costs for UI, including activities related to program integrity, as well as job service programs.

[10] Labor officials told us that payment timeliness is emphasized partly due to the 1971 Supreme Court decision *California Dept. of Human Resources Development v. Java*, 402 U.S. 121, that emphasized the need for states to pay UI benefits as promptly as was administratively feasible.

identify UI recipients who may have unreported income in the same state in which they are receiving UI benefits. Labor and the states generally view this match as an effective tool for identifying claimants who may have unreported wages within the state. However, because state wage data are only available quarterly, the crossmatch relies on information that may be several months old by the time the match is conducted. This delay allows some overpayments to remain undetected for a long period of time. Officials at Labor and in some states emphasized that overpayments are more likely to be recovered if they can be detected quickly. In general, the states tend to recover a substantial proportion of the overpayments they detect by offsetting a claimant's current and future UI benefits. Because UI benefits tend to be paid out over a relatively short period of time—about 14 weeks on average—overpayment detection and recovery activities may begin long after individuals leave the UI rolls. This inability to obtain timely eligibility information places the program at substantial risk for overpayments that may never be recovered.

More timely sources of data than the Wage/Benefit Crossmatch exist to verify a claimant's employment status, such as the State Directory of New Hires (referred to as the "state new hires database").[11] The states' new hires databases can provide information on individuals' current employment status, and have been found to be effective in preventing or reducing the amount of UI overpayments. However, we found that this data source is not routinely used in all states. For example, two of the states we visited do not currently use their new hires database to verify claimants' earnings or employment status.[12] Officials in one state told us that they currently lacked access to the state's new hires database (but are seeking access), while those in another state questioned the cost-effectiveness of its use. However, other states that use this data source have reported that it is helpful in detecting overpayments more quickly than the Wage/Benefit crossmatch. For example, one state reported that because the new hires data detects overpayments earlier than other detection methods, the size of its average overpayment at the time of

[11] Each state is required to maintain a database of individuals who were recently hired to help state child support enforcement agencies locate noncustodial parents who owe child support payments.

[12] All states were required to create a state directory of newly hired employees as part of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. Each state's directory periodically reports state unemployment insurance, wage, and new hires data to the National Directory of New Hires for purposes of locating noncustodial parents in other states who owe child support payments.

detection has been reduced from about $2,800 to roughly $750. Moreover, the same state reported that it detected about 6,700 overpayments totaling over $4 million using its new hire database between July 2000 and December 2001. Overall, use of the new hire database in this state accounted for more than 35 percent of all instances of overpayments detected during that period.[13] Another state reported increased overpayment collections of about $19 million over 4 years, in part due to earlier detections from the new hires database. Labor's OIG has identified the new hire database as a potentially useful tool for detecting overpayments resulting from unreported income, which makes up a substantial portion of the total overpayments estimated by the quality assurance system each year.[14] Although Labor has encouraged each state to use its own new hires database for purposes of administering their UI program, we found that nationally a number of states still do not use this data source.

While the states' directory of new hires data are useful for verifying claimants' employment status, a main limitation is that they only identify this information for claimants within a given state. To detect unreported or underreported wages in other states, some states also use various types of interstate matches that are facilitated by Labor.[15] One match (called the "Interstate Crossmatch") is conducted quarterly by most states for all UI claims and is designed to detect claimants who may have wages in another state. However, this match typically relies on wage data that are typically about 4 to 6 months old and, therefore, is of limited use in determining claimants' initial eligibility for benefits. The states may also use another type of match called the "Interstate Inquiry." This system allows a UI claims representative to check a claimant's UI and employment status in other states. However, officials at Labor and the states we visited told us that this system is generally only used if the claims representative is suspicious about the validity of the claim. Moreover, the system can only be used to check individual claimants and is not designed to verify the status of large numbers of claimants simultaneously. Finally, two of the states we visited periodically conduct their own matches with bordering states. However, this method generally requires individual states to

[13] These figures are based on the state's BPC data.

[14] See the U.S. Department of Labor, Office of Inspector General, *Unemployment Insurance Integrity: Fraud and Vulnerabilities in the System* (1P-03-315-0001-PE) March 31, 1999.

[15] These matches are conducted using Labor's Interstate Connection Network.

develop formal data sharing agreements with one another, which can be time-consuming and cumbersome.

To enhance the ability of states to verify the status of claimants who could be working or receiving UI benefits in other states, many of the officials we spoke with advocated giving states access to the Office of Child Support Enforcement's National Directory of New Hires (NDNH). The NDNH is a comprehensive source of unemployment insurance, wage, and new hires data for the whole nation. However, current law limits access to the NDNH and does not permit individual states to obtain data from it for purposes of verifying claimants' eligibility for UI.[16] Moreover, our prior work examining the NDNH has revealed concern among some federal officials that wider access to the database could jeopardize the security and confidentiality of the information it contains. One possible alternative to the NDNH suggested by federal and state officials for tracking interstate wages and UI benefit receipt is the Department of Labor's Wage Record Interchange System (WRIS). This system, which was developed in response to the Workforce Investment Act (WIA) of 1998, is a "data clearinghouse" that makes UI wage records available to states seeking employment and wage information on individuals in other states.[17] Certain federal officials and others familiar with WRIS told us that with some modification—such as incorporating the more timely new hires data from the states—WRIS could be a logical alternative to the NDNH because the computer network for sharing data among the states already exists. However, one official familiar with the system noted that while it contains the necessary data to show whether a claimant is earning wages in another participating state, it currently lacks important pieces of information (such as states' new hires data) that would make it most useful as an interstate verification tool. Moreover, in a recent report, we noted that some states have been reluctant to become involved with WRIS, partly because of concerns about the cost of administering the system.[18] Furthermore, we noted that if not all states participate, the value of WRIS will be

[16] 42 U.S.C. 653(l).

[17] WRIS helps participating states track the employment status of individuals who have participated in WIA job training programs in other states.

[18] Labor agreed to fund WRIS for the first year of its operation, but has not committed to funding future years. The estimated annual cost of administering the system is $2 million. See U.S. General Accounting Office, *Workforce Investment Act: Improvements Needed in Performance Measures to Provide a More Accurate Picture of WIA's Effectiveness*, GAO-02-275 (Washington, D.C.: Feb.1, 2002).

diminished—even for participating states—because no data will be available from nonparticipating states' UI wage records. This is an area where Labor could potentially play a larger role. In particular, Labor could explore options for enhancing WRIS as an overpayment detection tool and facilitating states' participation in any modified system. Although modifying existing systems and obtaining access to new, more timely data sources may entail additional costs for Labor and the states, our review and prior work in other programs suggests that the potential savings in program funds could outweigh these costs.[19]

Some States May Not Verify Claimants' Receipt of Other Programs' Benefits

Claimants' eligibility for UI benefits may be affected if they are receiving benefits from other state or federal programs. For example, claimants in some states are ineligible for UI benefits, or they may receive reduced benefits if they are receiving workers' compensation. Overpayments can occur if claimants do not accurately report the existence or amount of such benefits when they apply for UI, or if the state employment security agency fails to verify the information in a timely manner.[20] Only two of the six states we visited verify claimants' receipt of workers' compensation using independent sources of information. Moreover, at least one of these states only checks for receipt of workers' compensation if the claimant self-reports that he or she is currently receiving such benefits. Similarly, receipt of some federal benefits such as cash payments from Social Security programs may affect a UI claimant's eligibility for or amount of benefits.[21] For example, one state's policy manual requires claims representatives to ask claimants if they are currently receiving Social Security Disability Insurance (DI) or Old Age and Survivors Insurance (OASI) benefits, which could reduce or eliminate the amount of UI benefits they are eligible to receive. If a claimant states that he or she is not receiving DI benefits, then no further actions are taken to independently verify this information. Labor's quality assurance data

[19] See U.S. General Accounting Office, *Public Assistance: PARIS Project Can Help States Reduce Improper Benefit Payments*, GAO-01-935 (Washington, D.C.: Sept. 6, 2001); and *Supplemental Security Income: Action Needed on Long-Standing Problems Affecting Program Integrity*, GAO/HEHS-98-158 (Washington, D.C.: Sept. 14, 1998).

[20] State laws differ from one another in terms of how benefits that are received from other federal or state programs affect claimants' eligibility for UI benefits.

[21] The Social Security Administration is responsible for administering programs, including Old Age and Survivors Insurance, Supplemental Security Income, and Disability Insurance.

estimates that in 2001, about $35 million in UI overpayments were due to unreported social security benefits, such as DI.[22]

Some States Fail to Adequately Verify Claimants' Identity and Whether They Are Legal Residents

To ensure that UI benefits are paid only to individuals who are eligible to receive them, it is important that states verify claimants' identity and whether they are legal residents.[23] However, states may be vulnerable to fraud and overpayments because they rely heavily on claimants to self-report important identity information such as their social security number (SSN) or are unable to verify such information in a timely manner. Prior investigations by Labor's OIG demonstrate that the failure or inability of state employment security agencies to verify claimants' identity have likely contributed to millions of dollars in UI overpayments stemming from fraud. One audit conducted in four states (Florida, Georgia, North Carolina, and Texas) revealed that almost 3,000 UI claims totaling about $3.2 million were paid to individuals using SSNs that did not exist or belonged to deceased individuals. Furthermore, the OIG concluded that illegal aliens filed a substantial proportion of these claims.[24]

We found that vulnerabilities remain with regard to verifying claimants' identity and citizenship status. For example, none of the six states we visited have access to the Social Security Administration's (SSA) State Online Query (SOLQ) system, which can be used to verify the identity of claimants applying for UI by matching their name, date of birth, and SSN in real time. At the time of our review, only two states (Utah and Wisconsin) had access to this system because they were participating in a pilot project with SSA. The states we visited generally use a batch file method in which large numbers of SSNs are periodically sent to SSA for verification.[25] This process tends to be less timely than online access for verifying claimants' initial eligibility for benefits. However, one state we visited reported that it does not perform any verification of the SSNs that

[22] The national quality assurance data does not identify which social security programs were the primary source of errors in the Social Security category of overpayments.

[23] Although some categories of noncitizens may be eligible for UI benefits, such as those authorized to work in the United States at the time they apply for benefits, others, including illegal aliens, are not. See Federal Unemployment Tax Act, 26 U.S.C. 3304(a)(14)(A).

[24] See U.S. Department of Labor, Office of Inspector General, *Verification of Social Security Numbers Could Prevent Unemployment Insurance Payments to Illegal Aliens*, 04-98-001-03-315, March 2, 1998.

[25] States report sending SSNs to SSA for verification in intervals ranging from daily to once per quarter (every 3 months).

UI claimants submit because a prior system it used for verifying SSNs identified only a small number of potential violations. This state decided that its resources could be better used to support other key work priorities, including claims processing. In addition, all six states we visited rely mainly on claimants to accurately self-report their citizenship status when they first apply for UI benefits. State officials told us that they do not verify this information with the Immigration and Naturalization Service if the claimant states that he or she is a citizen. The results of our review suggest that the inability of some states to accurately verify whether claimants' are lawfully present in U.S., and thus their eligibility for UI, has contributed to program overpayments. Labor estimates that about $30 million of the $1.3 billion in overpayments that were deemed to be the most readily detected and recovered by the states in 2001 were due to illegal alien violations. (See table 2.)

Even if individuals do not misrepresent their identity or citizenship status to illegally obtain UI benefits, the potential for fraud and abuse may still exist. For example, one state we visited revealed that it, along with a bordering state, identified nine SSNs that are currently being illegally used by over 700 individuals as proof of eligibility for employment. Upon further investigation, we determined that these SSNs were being used in at least 29 states, and seven of the SSNs belonged to deceased individuals. Although we did not find any instances in which UI benefits were obtained by those individuals earning wages under these numbers, both state and federal officials agreed that the potential for these individuals to fraudulently apply for and receive UI benefits in the future was possible. Given the potential for fraudulent receipt of UI or other benefits, and the apparently widespread misuse of social security numbers, our Office of Special Investigations has initiated an investigation into this matter in coordination with the Social Security Administration and the Immigration and Naturalization Service.

States May Not Receive Timely Information from Employers

To varying degrees, officials from all of the six states we visited told us that employers or their agents do not always comply in a timely manner with state requests for information needed to determine a claimant's eligibility for UI benefits. For example, one state UI Director reported that about 75 percent of employers fail to respond to requests for wage information in a timely manner. In addition, an audit conducted between 1996 and 1998 by Labor's OIG revealed that 22 out of 53 states experienced a non-response rate of 25 percent or higher for wage requests sent to

employers.[26] A more in-depth review of seven states in this audit also showed that $17 million in overpayments occurred in four of the states because employers did not respond to the states' request for wage information. We discussed these issues with an official from a national employer representative organization. After consulting a broad cross-section of employers that are members of the organization, the official told us that some employers may resist requests to fill out paperwork from states because they view the process as cumbersome and time-consuming. In addition, some employers apparently indicated that they do not receive feedback on the results of the information they provided to the states and, therefore, cannot see the benefit of complying with the requests. It is also difficult for some employers to see how UI overpayments and fraud may affect them. In particular, because employers are unlikely to experience an immediate increase in the UI taxes they pay to the state as a direct result of overpayments, they do not see the benefit in complying with state requests for wage data in a timely manner. Although Labor has taken some limited actions to address this issue, our work to date shows that failure of employers to respond to requests for information in a timely manner is still a problem.[27]

States Vary in Their Ability To Recover Overpayments

While most states recover a large proportion of their overpayments by offsetting claimants' current or future benefits, some of the states we visited have additional overpayment recovery tools for individuals who are no longer receiving UI. These tools include state tax refund offset, wage garnishment, and use of private collection agencies.[28] Some of these procedures, such as the state tax refund offset, are viewed as particularly effective. For example, one state reported overpayment collections of about $11 million annually between 1998 and 2000 resulting from this process. Other states have increased overpayment collections by allowing

[26] See U.S. Department of Labor, Office of Inspector General, *Examination of UI Benefit/Wage Crossmatch and Analysis of Employers Who Fail to Respond to the States' Requests for Weekly Wage Data* (05-99-005-03-315) March 1999.

[27] Labor recently funded a grant to one state to facilitate more effective coordination and cooperation between the state and its employers. As a result of its actions, this state reported that about 80 percent of the state's employers comply with state requests for information in a timely manner.

[28] For UI claimants who have outstanding overpayments, the state tax refund offset allows a state to intercept the individual's state tax refund to recover an overpayment; wage garnishment allows the state to recover UI overpayments from an individual's paycheck when they return to work; private collection agencies can pursue overpayments when the state has been unsuccessful in recovering using its existing collection procedures.

more aggressive criminal penalties for individuals who are suspected of UI fraud. For example, one state prosecutes UI fraud cases that exceed a minimum threshold as felonies instead of misdemeanors. Officials in this state reported that by developing agreements with local district attorneys, the state OIG has been able to use the threat of imprisonment to encourage claimants' suspected of fraud to make restitution for UI overpayments. According to state officials, this initiative has resulted in $37 million in additional overpayment collections in calendar years 2000 and 2001. However, other states we visited lacked many of these tools. For example, one state relied heavily on offsets against current UI claims to recover overpayments because its laws and policies did not permit the use of many of the tools that other states have found to be effective for collecting overpayments from individuals who have left the UI rolls.

Labor's Management Has Not Adequately Balanced the Need for Payment Timeliness with the Need for Payment Accuracy

In general, Labor's approach to managing the UI program has emphasized quickly processing and paying UI claims, with only limited attention to overpayment prevention, detection, and collection. This approach is most evident in the priorities that are emphasized in Labor's recent annual performance plans, the UI program's performance measurement system, and the limited use of quality assurance data to correct vulnerabilities in states' UI operations. For example, Labor's recent annual performance plans required under the Government Performance and Results Act of 1993 have not included strategies or goals to improve payment accuracy in state UI programs. In addition, we found that Labor's system for measuring and improving operational performance in the UI program is primarily geared to assess the timeliness of various state operations.[29] Most of the first 12 performance measures (called Tier I) assess whether states meet specified timeframes for certain activities, such as the percentage of first payments made to claimants within 14 to 35 days and the percentage of claims appeals decided within 45 days. However, none of the Tier I measures gauge the accuracy of UI payments. Labor also gives Tier I measures more weight than the remaining measures (called Tier II), which assess other aspects of state performance, including fraud and nonfraud collections. Labor has developed national criteria specifying the minimum acceptable level of performance for most Tier I measures.[30]

[29] This system, called "UI Performs," was developed with input and coordination from the states. The system incorporates more than 70 performance measures to gauge states' performance, including the timeliness, quality, and accuracy of benefit decisions.

[30] The national minimum performance criteria are performance measures that are applied uniformly to all states.

States that fail to meet the minimum established criteria are required to take steps to improve their performance. Generally, states are required to submit a "Corrective Action Plan" to Labor as part of the annual SQSP.[31] Moreover, Labor has stated that it could withhold the administrative funding of states that continue to perform below specified Tier I criteria over an extended period of time, although this rarely occurs. By contrast, the Tier II measures do not have national minimum performance criteria, and are generally not enforced as strictly by Labor. For example, a state that fails to meet Tier II measures may be encouraged to submit a "Continuous Improvement Plan" discussing how it will address performance problems. However, Labor generally does not require a state to submit such a plan and does not withhold administrative funds as an incentive to ensure state compliance with Tier II measures.

Officials from most of the states we visited also told us that the Tier I and Tier II measures make the UI program complex to administer, and may contribute to an environment in which overpayments are more likely. In particular, these officials told us that because the measures are so numerous and are designed to monitor a wide range of activities related to administering the UI program, it is difficult to place sufficient emphasis on more fundamental management issues, such as payment accuracy. There are currently more than 70 Tier I and Tier II measures that gauge how states perform in terms of the timeliness, quality, and accuracy of benefit decisions. These include the timeliness of first payments, the timeliness of wage reports from employers, the quality of appeals decisions, the number of employers that were audited, and the amount of fraud and non-fraud collections. A number of state officials we spoke with told us that it is difficult for states to adequately balance the attention they give to each of the measures because they are so numerous and complex. For example, some states tend to focus most of their staff and resources on meeting certain measures such as payment timeliness, but may neglect other activities such as those dealing with program integrity in the process. Some officials suggested reducing or revising the current measures to make them more manageable. We raised this issue with Labor officials during our review. However, the officials were unable to comment on potential revisions to the measures because a previously scheduled assessment of Labor's performance measurement system was still

[31] The SQSP includes the state's request for administrative funds as part of the annual budget cycle.

ongoing. Labor indicated that revisions could potentially occur based on their ongoing review of the performance management system.

In addition to the problems we identified with its performance measures, Labor has been reluctant to hold states accountable by linking their performance in areas such as payment accuracy to the annual administrative budget process. One tool Labor possesses to influence state behavior is the ability to withhold the state's annual administrative grant.[32] However, this sanction is rarely used because it is generally intended to address instances of serious, sustained noncompliance by a state and is widely viewed as defeating the purpose of the program. Thus, many federal and state officials we interviewed perceive that Labor has few, if any practical tools to compel state compliance with federal program directives. Compounding this problem is the existence of "bottom line authority"—an administrative decision made by Labor in 1986 that gave states greater flexibility over their expenditures and reduced federal monitoring of administrative expenditures.[33] In particular, bottom line authority permits states to move resources among cost categories—such as from benefit payment control activities to claims processing—and across quarters within a fiscal year, as well as use UI administrative resources based on state assessment of its needs. Some officials we spoke with suggested that over time the existence of bottom line authority has hindered Labor's ability to effectively oversee the program.

Given its current administrative authority to oversee the UI program, Labor has not done enough in recent years to encourage states to balance payment timeliness with the need for payment accuracy in a manner that does not require the complete withholding of administrative funds. For example, our review found that in the past, Labor linked the quality assurance process to the budget process and required states to meet specified performance levels as a condition of receiving administrative grants. Moreover, under federal regulations covering grants to states, Labor may temporarily withhold cash payments, disallow costs, or terminate part of a state's administrative grant due to noncompliance with grant agreements or statutes.[34] Withholding or delaying a portion of the grant funds is one way Labor can potentially persuade states to implement

[32] 20 C.F.R. 601.5.

[33] *Federal Register*, Vol.. 51 No. 95, May 16 1986 (pp. 18052-18053).

[34] 29 C.F.R. 97.43.

basic payment control policies and procedures. In addition, during the annual budget process, Labor reviews states' requests for funds necessary to administer their UI programs and ensures an equitable allocation of funds among states.[35] While completing those reviews, Labor could prioritize administrative funding to states to help them achieve or surpass agreed upon payment accuracy performance levels. However, we found that Labor is only using such tools to a limited degree to help states enhance the integrity of their UI program operations.

Labor Has Not Fully Utilized Its Quality Assurance Data to Improve State Operations

In addition to its overall emphasis on quickly processing and paying UI claims, Labor has been reluctant to use its quality assurance data as a management tool to encourage states to place greater emphasis on program integrity. According to the UI Performs Calendar Year 2000 Annual Report and Labor officials, quality assurance data should be used to identify vulnerabilities in state program operations, measure the effectiveness of efforts to address these vulnerabilities, and help states develop mechanisms that prevent overpayments from occurring.[36] However, as currently administered, Labor's quality assurance system does not achieve all of these objectives. In particular, Labor lacks an effective mechanism to link its quality assurance data with specific improvements that are needed in states' operations. For example, over the last decade, payment errors due to unreported income have consistently represented between 20 and 30 percent of annual UI overpayments. While Labor's quality assurance system has repeatedly identified income reporting as a vulnerable area, it has not always played an active role in helping states develop specific strategies for improving their performance in this area. Of particular concern to us is that the overpayment rate for the nation has shown little improvement over the last 10 years. This suggests that Labor and some of the states are not adequately using quality assurance data to address program policies and procedures that allow overpayments to occur.

According to its fiscal year 2003 performance plan, Labor intends to provide states with additional data from its quality assurance system on the sources of overpayments to assist them in crafting better front-end procedures for preventing overpayments. However, unless Labor uses the data to help states identify internal policies and procedures that need to be

[35] 20 C.F.R. 601.6.

[36] See Department of Labor, Employment and Training Administration, *UI Performs Calendar Year 2000 Annual Report*, p.9.

changed, it is unclear what impact Labor's efforts will have on improving the integrity of states' UI programs.

Labor Gives Inadequate Attention to Overpayment Recoveries

Finally, Labor has given limited attention to overpayment collections. Currently, Labor evaluates states' collection activities using a set of measures called Desired Levels of Achievement (DLA).[37] States are expected to collect at least 55 percent of all the overpayments they establish annually through their benefit payment control operations. This 55 percent performance target has not been modified since 1979 despite advancements in technology over the last decade such as online access to wage and employment information that could make overpayment recovery more efficient. At the time of our review, 34 out of 53 states met or exceeded the minimum standard of 55 percent. The average rate of collections nationwide in that year was about 57 percent.[38] A small number of federal and state officials told us that states tend to devote the minimum possible resources to meet it each year. For example, one state official told us that over time, UI program managers are able to reasonably calculate the number of staff that they must devote to benefit payment control activities in order to meet the minimum level for overpayment recoveries each year. Any additional staff are likely to be moved to claims processing activities. Some officials also indicated that the DLA for collections should be increased. However, our work shows that Labor has not actively sought to improve overpayment collections by requiring states to incrementally increase the percentage of overpayments they recover each year.

Labor Is Taking Actions to Improve Program Integrity

Labor is taking steps to address some of the vulnerabilities we identified. At the time of our review, Labor was continuing to implement a series of actions that are designed to help states with the administration of their UI programs. These include the following:

- States use the Information Technology Support Center (ITSC) as a resource to obtain technical information and best practices for administering their UI programs. The ITSC is a collaborative effort

[37] The DLA resulted from an administrative action taken by Labor in lieu of formal UI regulations for measuring overpayment collections in the UI program.

[38] The figure of 57 percent is based on the total overpayment figure according to the BPC data ($653 million established and $370 million collected). However, using the quality assurance estimate of overpayments that could be detected and recovered by the states ($1.3 billion), the collection rate drops to about 28 percent.

involving the Department of Labor, state employment security agencies, private sector organizations, and the state of Maryland. The ITSC was created in 1994 to help states adopt more efficient, timely, and cost-effective service for their unemployment service claimants.

- Labor provides technical assistance and training for state personnel, as well as coordination and support for periodic program integrity conferences. For example, for the last three years, Labor has conducted at least 4 national training sessions focusing on the quality of UI eligibility decisions, including payment accuracy.
- Labor requests funding for the states earmarked for program integrity purposes. For example, in 2001, Labor allocated about $35 million for states to improve benefit overpayment detection and collection, eligibility reviews, and field tax audits.

Labor also plans to continue its program of offering competitive grants to improve program integrity. For example, Labor awarded the state of Maryland a competitive grant to develop a technical assistance guide on methods for detecting overpayments. Similarly, Labor awarded California a grant in 1998 to develop a guide on best practices for recovering overpayments. In both cases, these guides were made available to all states to help them improve the integrity of their UI programs by identifying sources of information and methods that some states have found to be effective.

To facilitate improved payment accuracy in the states' UI programs, Labor recently included an indicator in its Annual Performance Plan for FY 2003 that will establish a baseline measurement for benefit payment accuracy during 2002. Labor also plans to provide states with additional quality assurance data on the nature and cause of overpayments to help them better target areas of vulnerability and identify more effective means of preventing overpayments.

At the time of our review, Labor was also developing a legislative proposal to give state employment security agencies access to the NDNH to verify UI claimants' employment and benefit status in other states. Our analysis suggests that use of this data source could potentially help states reduce their exposure to overpayments. For example, if the directory had been used by all states to detect claimants' unreported or underreported income, it could have helped prevent or detect hundreds of millions of

dollars in overpayments in 2001 alone.[39] In addition, Labor is working to develop an agreement with the Social Security Administration that would grant states access to the SSA's SOLQ system. States that used this system would be able to more quickly validate the accuracy of each claimant's SSN and identity at the time of application for UI benefits.

Conclusions

Despite the various efforts by Labor and some states to improve the integrity of the UI program, problems still exist. The vulnerabilities that we have identified are partly attributable to a management approach in Labor and many states that does not adequately balance the need to quickly process and pay UI claims with the need to control program payments. While we recognize the importance of paying UI benefits to eligible claimants in a timely manner, this approach has likely contributed to the consistently high level of overpayments over time, and as such, may have increased the burden placed on some state UI trust funds. As the number of UI claimants has risen over the last year, many states have felt pressured to quickly process and pay additional claims. The results of our review suggest that, in this environment, the potential for errors and overpayments is likely.

Labor is taking some positive steps to improve UI program integrity by helping enhance existing state operations. However, absent a change in the current approach to managing the UI program at both the federal and state level, it is unlikely that the deficiencies we identified will be addressed. In particular, without more active involvement from Labor in emphasizing the need to balance payment timeliness with payment accuracy, states may be reluctant to implement the needed changes in their management philosophy and operations. States are also unlikely to voluntarily increase their overpayment recovery efforts. As discussed in this report, Labor already possesses some management and operational tools to facilitate changes in the program. For example, with an increased emphasis on payment accuracy, Labor's system of performance measures could help encourage states to place a higher priority on program integrity activities. However, an effective strategy to help states control benefit payments will require use of its quality assurance data to identify areas for improvement and work with the states to implement changes to policies and procedures that allow overpayments to occur. Labor could also play a

[39] This assumes that the top two categories of overpayments (benefit year earnings and base period wages) were substantially reduced or eliminated by use of the NDNH.

more active role in helping states obtain additional automated tools to verify factors affecting claimants' UI eligibility, such as identity, employment status, and income, as well as ensuring that these tools are actually used. Key to this is sustaining its efforts to expand state access to SSA's online database for verifying the accuracy of SSNs and developing more efficient automated means to help states verify claimants' employment status and any income they may be receiving in other states. Also, Labor already possesses systems such as WRIS that, with some modification, could potentially help states verify claimants' eligibility information in other states more efficiently. While implementing changes to existing systems would likely entail some additional administrative costs for Labor and the states, the results of this review and our prior work in other programs suggests that the savings that result from enhanced payment accuracy procedures (such as online access to important data sources) and increased attention to preventing and detecting overpayments could outweigh these costs. Finally, Labor must be willing to link state performance in the area of program integrity to tangible incentives and disincentives, such as through the annual administrative funding process.

As currently designed and administered, the UI program remains vulnerable to overpayments and fraud. This vulnerability extends to the billions of dollars in additional federal funds recently distributed to the states by Congress. Thus, a coordinated effort between Labor and the states is needed to address the weaknesses we have identified and reduce the program's exposure to improper payments. Without such an effort, Labor risks continuing the policies and procedures that have contributed to consistently high levels of UI overpayments over the last decade.

Recommendations

To facilitate a change in Labor's management approach that will help to improve UI program integrity, we recommend that the Secretary of Labor develop a management strategy to ensure that the UI program's traditional emphasis on quickly processing and paying UI claims is balanced with the need for payment accuracy. Such a strategy should include the following actions:

- Revise program performance measures to ensure increased emphasis on payment accuracy.
- Use the annual administrative funding process or other funding mechanisms to develop incentives and sanctions that will encourage state compliance with payment accuracy performance measures.

- Use its quality assurance data more intensively to help states identify internal policies and procedures that need to be changed to enhance payment accuracy.
- Develop a plan to help states increase the proportion of UI overpayments that are recovered each year.
- Study the potential for using the WRIS as an interstate eligibility verification tool.

Agency Comments and Our Evaluation

Labor generally agreed with our findings and our recommendations. In particular, Labor agreed that existing performance measures emphasize payment timeliness more heavily than payment accuracy, and noted that it is currently in the process of reviewing these measures.

Labor also stated that our report does not sufficiently acknowledge the challenges that are inherent in assuring payment accuracy and the current and planned efforts by Labor and the states to address program integrity. We believe that this report fairly characterizes the challenges that states face in balancing the need to make timely payments with the need for payment accuracy. In particular, the report acknowledges the fact that some types of overpayments are more difficult for states to detect and prevent than others, and therefore present additional challenges for states in ensuring payment accuracy. We also list several initiatives that Labor and the states are planning, or are currently implementing to enhance payment accuracy in the UI program. In addition, Labor provided a number of technical comments on our report, which we have incorporated where appropriate.

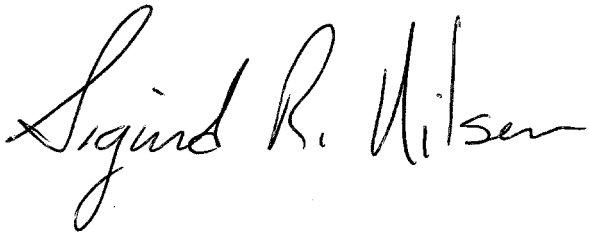
Furthermore, Labor raised one issue in its comments that we believe requires additional explanation. Labor questioned our assessment that it has not fully utilized its quality assurance data to improve state operations. Labor noted that it was responsible for the development of the wage/benefit crossmatch system in the 1970s, and more recently has promoted the states' use of their state directory of new hires. While these initiatives demonstrate areas where Labor has played a more active role in facilitating the use of better verification tools, Labor's response does not directly address our finding that it is not systematically using its quality assurance data to identify and correct vulnerabilities in states' systems. As our report notes, the overpayment rate estimated by the quality assurance system has not significantly improved over the last 10 years. Thus, we continue to believe that Labor and some of the states are not adequately using the quality assurance data to address program policies and

procedures that allow overpayments to occur. The entire text of Labor's comments appears in appendix II.

We are sending copies of this report to the Secretary of Labor, the Assistant Secretary of Employment and Training, and other interested parties. Copies will be made available to others upon request. This report is also available at no charge on GAO's homepage at http://www.gao.gov.

If you have any questions concerning this report please contact me at (202) 512-7215, or Daniel Bertoni at (202) 512-5988. Other major contributors are listed in appendix III.

Sincerely yours,



Sigurd R. Nilsen
Director, Education, Workforce,
and Income Security Issues

Appendix I: Categories of Overpayments Estimated by Labor's Quality Assurance System (U.S. Totals for 2001)

In its Employment and Training Handbooks 301 and 395, the Department of Labor provides guidance on six general categories of overpayments: Benefit Year Earnings, Base Period Wages, Separation Issues, Eligibility Issues, Dependent Issues, and Other Causes. These categories can be divided into various subcategories to provide more detailed information on the causes of overpayments in the UI program. (See table 3)

Table 3: Categories of Overpayments Estimated by Labor's Quality Assurance System (U.S. Totals for 2001)

Dollars in millions

Categories of overpayments[a]	Fraud	Nonfraud	Total overpayment[b]	Percent of total overpayments
Eligibility Issues—claimant was not eligible for UI benefits[c]	-	-	-	-
Not Able or Available to Work	$32.7	$134.2	$166.8	6.8
Not Actively Searching for a Job	30.6	342.8	373.4	15.2
Illegal Alien	13.3	16.6	29.9	1.2
Not Enrolled for Employment Services as Required by State Law	1.2	214.1	215.3	8.8
Other Types of Eligibility Issues	28.3	49.6	77.9	3.2
Benefit Year Earnings—overpayments due to erroneously reported or unreported earnings	325.0	374.7	699.8	28.6
Severance/Vacation Pay	0.2	29.6	29.8	1.2
Social Security	1.4	33.5	34.9	1.4
Separation Issues (other)—claimant became unemployed for reasons not covered by state or federal law for receipt of UI benefits, including being discharged	26.6	153.4	180.1	7.3
Voluntary Quit	99.6	232.7	332.3	13.6
Base Period Wages—errors in reporting/recording wages or amount of work	10.2	190.3	200.5	8.2
Dependent Issues—erroneous reporting/recording of dependents' information	0. 2	24.6	24.8	1.0
Other Causes—such as benefits paid during a period of disqualification or reversal of benefits due to an appeals decision	8.1	77.3	85.4	3.5
Total overpayments[c]	**$577.4**	**$1,873.5**	**$2,450.9**	**100**

[a]Main overpayment categories and their subcategories are mutually exclusive (where applicable) as presented here for purposes of calculating total overpayments.

[b]Totals may not add due to rounding.

[c]Total overpayment figures do not include data from Colorado and Puerto Rico.

Source: Department of Labor's quality assurance data (2001).

Appendix II: Comments from the Department of Labor

U.S. Department of Labor

Assistant Secretary for
Employment and Training
Washington, D.C. 20210

JUN 21 2002

Mr. Sigurd R. Nilsen
Director, Education, Workforce,
And Income Security Issues
United States General Accounting Office
Washington, DC 20548

Dear Mr. Nilsen:

Thank you for the opportunity to review and comment on the draft report, "Unemployment Insurance: Increased Focus on Program Integrity Could Reduce Billions in Overpayments," (GAO-02-697). Your letter to Secretary Chao was sent to the Employment and Training Administration for response since this office has oversight responsibility for the unemployment insurance (UI) program.

Improving financial management is a major initiative within the President's Management Agenda (PMA), the President's plan to improve government performance and efficiency. Under the PMA, the Office of Management and Budget has identified UI overpayments as one of the Department of Labor's primary financial management challenges. As a result, the Employment and Training Administration has developed a plan to address this issue.

Planned actions, some of which are cited in your draft report, include: developing and implementing a new operational definition of UI overpayments; promoting use of State Directories of New Hires to detect overpayments quicker; authorizing state use of the National Directory of New Hires through a federal law change; providing states on-line access to Social Security Administration data to verify claimant identities; disseminating information regarding successful practices to improve program integrity; and establishing a new Government Performance and Results Act goal of reducing UI overpayments. These actions will build on earlier efforts to address this issue.

Since 1987, the Department has required states to "audit" a random sample of weekly unemployment claims to verify that all eligibility requirements were met. This sample is used to estimate the level of overpayments and underpayments for all claims, but it also provides an incentive for beneficiaries' compliance with eligibility requirements since any weekly claim may be selected for audit. The Department has also promoted state use of new tools to detect and collect overpayments and last year sponsored, jointly with the National Association of State Workforce Agencies, a national conference to promote use of best practices to improve program integrity.

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As you can see, in general, we agree with the GAO report's recommendations. In particular, we agree with the report's finding that performance measures emphasize payment timeliness more heavily than payment accuracy, and we are proceeding to review these measures. However, we also believe that it fails to acknowledge the challenges that are inherent in assuring payment accuracy and the current and planned efforts by states and the Department to address program integrity.

The UI system pays benefits currently to about 4.5 million unemployed workers per week; eligibility requirements are numerous, and many requirements must be certified on a weekly basis. Payment accuracy is dependent on compliance by workers and employers with state UI laws because it is impractical to verify all eligibility requirements each week except on a sample/audit basis. States must manage their resources to ensure that benefits are paid promptly as well as addressing payment accuracy. Detection/verification and collection of overpayments are labor-intensive, and during a period of rising unemployment claims, like the one during which your study was done, states may be forced to divert staff temporarily from integrity activities to claims processing. We believe that the challenges faced by the system during a recession should be included in the report to provide an important perspective.

We have enclosed a list of specific comments and clarifications to the draft report. They are presented by subject heading in the same order as contained in the report. Thank you for the opportunity to review the report before it is finalized.

Should you need clarification or explanation of the comments, please contact me at 693-2700 or Grace Kilbane or Cheryl Atkinson at 693-3200.

Sincerely,

Emily Stover DeRocco

Enclosures

COMMENTS TO DRAFT OF GAO REPORT OF JULY 2002

Unemployment Insurance:
Increased Focus on Program Integrity Could Reduce Billions in Overpayments

Results in Brief

Page 2, 4th line: "Labor's analysis suggests that the states could have detected and/or recovered about $1.3 billion of the total overpayments that year given their current policies and procedures."

Comment: Sentence should read, "Labor's analysis suggests that the states could have potentially detected and/or recovered about $1.3 billion of the total overpayments that year given their current policies and procedures." (The word "potentially" should be used throughout the document in this regard.) Additionally, the following should be added: "The actual quantity/workload that states can handle is dependent upon available resources."

Page 2, 4th sentence from bottom states: "… Labor's quality assurance system estimate represents a more complete assessment of the true level of overpayments in the UI program than the amount reported by the states. This is primarily due to the fact that Labor's quality assurance estimate is based on a more comprehensive examination of individual UI claims than the states' benefit payment control process can generally produce."

Comment: It should be noted that the benefit payment control (BPC) data are not estimates; by design, BPC data report actual work completed. There can be no realistic expectation that BPC data can approximate estimates from a sampling process. The scope of BPC and BAM (the quality assurance estimate) differ greatly and refer to overpayments made in different time periods; therefore, comparisons of the levels of overpayments detected by one and estimated by the other must be made with considerable caution.

Page 3, 1st full paragraph, 7th line from bottom states: " … - they also rely heavily on self-reported information from claimants for other important data, such as a claimant's receipt of other federal or state program benefits and whether they were lawfully admitted for employment in the United States."

Comment: While it is true that the UI program is dependent, in part, upon self-reported information from claimants, it is inaccurate to state that this is the case regarding whether a claimant was lawfully admitted for employment in the United States. All states are required to verify a non-citizen claimant's alien status through the Immigration and Naturalization Service's Systematic Alien Verification for Entitlements (SAVE) process.

Background

Page 7, top paragraph, last sentence states: "In general, states are expected to provide the first benefits to the claimant within 14 to 35 days of the date of application."

Comment: This is inaccurate. The sentence should read: "In general, states are expected to provide the first benefits to claimants within 14 days of the end of the first compensable week. However, states that do not require claimants to serve a "waiting week" prior to receipt of benefits (12 states do not require a waiting week) are expected to provide the first benefits to claimants within 21 days of the end of the first compensable week."

Page 7, second paragraph, third sentence. In reference to the states' BPC units where overpayments are detected and recovered, it is stated that: "This process also involves verifying the reason for the overpayment …"

Comment: The word "verifying" is inaccurate and confusing in this context. It should perhaps instead be stated that the overpayments are reported quarterly by category.

More Than $2 Billion Dollars in Overpayments Estimated in 2001

Page 7, third line from bottom. It is stated "… Labor estimates that about $1.3 billion could have been detected and/or recovered in 2001 …".

Comment: Sentence should read: "Labor estimates that about $1.3 billion is potentially detectable and recoverable given the existing state procedures and policies."

Overpayments Have Changed Little During Last 10 Years

Page 9, second paragraph/ second sentence on page 9 - and page 11, first full paragraph, line 9. Reference is made to "… wages or other sources of income that a claimant obtained while receiving UI benefits ("benefit year earnings" or "base period wage" violations)."

Comment: Benefit year earnings are different from base period wages, and it appears that the statement should be restricted to "benefit year earnings." Benefit year earnings are received while drawing benefits, while base period wages are the wages earned prior to the claim and upon which the monetary determination was based, i.e., those wages used to establish eligibility.

Page 10, line 8. "In particular, there is not a readily available source of information that states can access for information on whether each claimant is actively looking for employment."

Comment: Another sentence should follow: "Work search requirements vary considerably from state-to-state and can have a significant impact on state accuracy rates."

Page 10, Chart of Categories of Overpayments.

Comment: The numbers in your chart were based upon preliminary data that we provided to you. Final figures for 2001 are now available and are included at the end of these comments. They revise the percentages only slightly. It should be noted that the totals exclude numbers from both Colorado and Puerto Rico due to sampling inadequacies.

Page 11, 1st full paragraph, line 4. "This estimate is based on Labor's analysis of what the states' benefit payment control operations were most likely to be able to identify and recover given their current policies and procedures."

Comment: The sentence should read, "This estimate is based on Labor's analysis of the types of overpayment errors the states' benefit payment control operations were most likely to be able to identify and recover given their current policies and procedures."

States Place Main Emphasis on Quickly Processing and Paying UI Claims

Page 13/14. In this section and elsewhere throughout the report, the finding/conclusion has been presented that states place the main emphasis on quickly processing and paying UI claims.

Comment: *Please note that the Department of Labor feels that it is imperative that the report should be changed to reflect the following:*

This is generally true. On April 26, 1971, the United States Supreme Court issued a decision in California Department of Human Resources Development v. Java (402 US 121) addressing the timeliness of UI payments. The Court repeatedly placed emphasis on the Congressional objective of the program of "achieving the promptest payment of benefits that is administratively possible." ETA issued guidelines to the states for implementing procedures to accommodate this decision and subsequently developed criteria for the Secretary's Standard for first payment promptness. However, despite this required emphasis on promptness of processing and paying benefits, the accuracy of benefit payments has not been neglected. For example, ETA has devoted considerable time and effort to conducting training to improve the quality of nonmonetary determinations, which can help to reduce inaccurate payments and thus reduce overpayments.

Some States Fail to Adequately Verify Claimants' Identity and Whether They Are Legal Residents

Page 20, 7th line from top states: "In addition, all six states we visited rely mainly on claimants to accurately self-report their citizenship status when they first apply for UI benefits. State officials told us that they generally do not verify this information with the Immigration and Naturalization Service unless the claimant states that he or she is a noncitizen. The results of our review suggest that the inability of some states to accurately verify whether claimants' (sic) are lawfully present in U.S., and thus their eligibility for UI, has contributed to program overpayments."

Comment: *Please note that the Department of Labor feels that it is imperative that the report should be changed to reflect the following:*

There are technical inaccuracies in the above-quoted sentences. There is no database of U.S. citizens that could be used to verify citizenship; therefore, in all states, claimants must respond to a question on the initial claims form that asks: "Are you a citizen of the U.S.?" If the claimant answers "Yes," the claim is processed with no further questions regarding citizenship. If the

claimant answers "No," all states are required to verify the alien status through the Immigration and Naturalization Service's Systematic Alien Verification for Entitlements (SAVE) process. Thus, all states are vulnerable to an illegal alien who fraudulently states that he or she is a citizen, but all states verify whether an alien claimant is lawfully present in the U.S. As more and more states begin to verify claimant social security numbers (SSN) with the Social Security Administration's data, overpayments due to a wrong SSN will be reduced.

Labor's Management Has Not Adequately Balanced the Need for Payment Timeliness with the Need for Payment Accuracy

Page 22, entire section.

Comment: Prompt payment of benefits is critical for the UI system to meet its dual goals of alleviating personal hardship and stabilizing the economy. However, significant emphasis has been placed on payment accuracy. Beginning in 1987, ETA required states to implement a payment quality control program – now called BAM – to estimate the level and determine the causes of benefit over- and underpayments. Since the beginning of BAM, every state has received funding for a BAM analyst position so that it could conduct regular analyses of BAM data. The Department funds a computer-training center in Minnesota to ensure that states' staff are competent in analytical software and analytical techniques. The Department regularly disseminates BAM and BPC information to states. Every year, for the last three years, the Department has conducted at least four national training sessions focused on nonmonetary determination quality, an important ingredient for decisions of payment accuracy. We acknowledge that more work is needed, and under the impetus of the President's Management Agenda, more work is planned, such as cost-benefit analyses and a payment integrity measure to be included in the Government Performance and Results Act Annual Performance Plan. This is in addition to the initiatives mentioned in the report, such as promoting the use of the Social Security database and of the New Hires data. *We recommend these additional initiatives be referenced in the report.*

Labor Has Not Fully Utilized Its Quality Assurance Data to Improve State Operations

Page 25/26, sentence starting 4th line from bottom on page 25 states: "While Labor's quality assurance system has repeatedly identified income reporting as a vulnerable area, it has not always played an active role in helping states develop specific strategies for improving their performance in this area. Of particular concern to us is that the overpayment rate for the nation has shown little improvement over the last 10 years. This suggests that Labor and some of the states are not adequately using quality assurance data to address program policies and procedures that allow overpayments to occur."

Comment: Labor was responsible for development of the wage/benefit crossmatch system in the 1970's and its implementation in the states. Until the advent of welfare reform legislation and the State Directory of New Hires (SDNH), the wage/benefit crossmatch system was the most effective tool available to states to detect unreported earnings. More recently, Labor has promoted states' use of the SDNH as an improvement over the wage/benefit crossmatch system. Some states are now using the SDNH, and as the transition to this system continues, we expect

reductions in overpayments to become apparent. However, similar to the wage/benefit crossmatch system, investigations of "hits" in the SDNH system are staff-intensive, and the quantity of investigations is limited by available resources.

Appendix III: GAO Contacts and Staff Acknowledgments

GAO Contacts

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Staff Acknowledgments

In addition to those named above, Richard Burkard, Cheryn Powell, Frank Putallaz, Daniel Schwimer, John Smale, and Salvatore Sorbello made key contributions to this report.

Related GAO Products

Workforce Investment Act: Improvements Needed in Performance Measures to Provide a More Accurate Picture of WIA's Effectiveness. GAO-02-275. Washington, D.C.: February 1, 2002.

Strategies to Manage Improper Payments: Learning from Public and Private Sector Organizations. GAO-02-69G. Washington, D.C.: October 2001.

Department of Labor: Status of Achieving Key Outcomes and Addressing Major Management Challenges. GAO-01-779. Washington, D.C.: June 15, 2001.

Unemployment Insurance: Role as Safety Net for Low-Wage Workers is Limited. GAO-01-181. Washington, D.C.: December 29, 2000.

Benefit and Loan Programs: Improved Data Sharing Could Enhance Program Integrity. GAO/HEHS-00-119. Washington, D.C.: September 13, 2000.

Supplemental Security Income: Action Needed on Long-Standing Problems Affecting Program Integrity. GAO/HEHS-98-158. Washington, D.C.: September 14, 1998.

Supplemental Security Income: Opportunities Exist for Improving Payment Accuracy. GAO/HEHS-98-75. Washington, D.C.: March 27, 1998.

Supplemental Security Income: Administrative and Program Savings Possible by Directly Accessing State Data. GAO/HEHS-96-163. Washington, D.C.: August 29, 1996.

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