



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

August 2018

UNEMPLOYMENT INSURANCE

Actions Needed to
Ensure Consistent
Reporting of
Overpayments
and Claimants'
Compliance with Work
Search Requirements

GAO Highlights

Highlights of [GAO-18-486](#), a report to the Chairman, Subcommittee on Human Resources, Committee on Ways and Means, House of Representatives

Why GAO Did This Study

The UI program, which is overseen by DOL and administered by states, paid \$30 billion to about 5.7 million individuals in 2017. Under federal law, to be eligible for benefits, individuals are generally required to actively search for work, but the specific work search requirements vary by state. Yet, states found that some benefits were overpaid to UI claimants who were ineligible because they were not meeting work search requirements. GAO was asked to review improper payments due to UI claimants' failure to actively search for work. Building on GAO's prior work (GAO-18-133R), this report examines (1) state administrative practices associated with work search overpayments; (2) selected states' approaches to address work search overpayments; and (3) DOL's oversight and support of states' efforts.

GAO analyzed DOL data, including the results of state reviews of a representative random sample of UI payments made from fiscal years 2013 through 2017. GAO also reviewed UI information from six states selected for variation in work search requirements and overpayment rates, interviewed DOL and state officials, and reviewed relevant federal laws, regulations, and guidance.

What GAO Recommends

GAO is making four recommendations to DOL, including that it provide states information about its determination that the use of state formal warning policies is no longer permissible and clarify its work search verification requirements. DOL agreed with GAO's recommendations and stated that it would take action to address them.

View [GAO-18-486](#). For more information, contact Cindy Brown Barnes at (202) 512-7215 or brownbarnesc@gao.gov.

August 2018

UNEMPLOYMENT INSURANCE

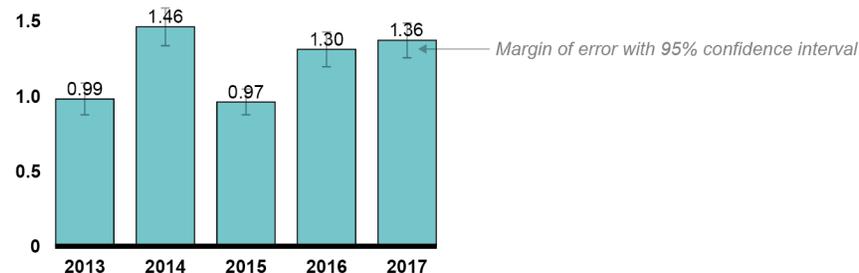
Actions Needed to Ensure Consistent Reporting of Overpayments and Claimants' Compliance with Work Search Requirements

What GAO Found

GAO's analysis of Department of Labor (DOL) data found that certain state administrative practices, such as reviewing a higher percentage of claimant-reported work search activities and frequent use of formal warnings, were associated with lower estimated work search overpayment rates for the Unemployment Insurance (UI) program. According to DOL data, 22 states were warning claimants after the first discovered occurrence of their failure to meet work search requirements (i.e., issuing formal warnings) rather than reporting that an overpayment was made, while the other states were reporting such cases as overpayments. In 2017, DOL determined that federal law does not permit states to use such policies. GAO's analysis of DOL data shows that in fiscal year 2017, estimated work search overpayments were nearly \$1.4 billion (see fig.), but would have been an estimated \$1.8 billion (+/- \$0.2 billion) greater if states had not issued formal warnings and established overpayments. DOL officials told GAO in July 2017 that the agency would issue a letter to states informing them that federal law does not permit them to warn claimants instead of establishing an overpayment. To date, DOL has not issued the letter. Until DOL provides states with such notification, states may continue to report inconsistent information on overpayments.

Estimated overpayments due to failure to meet search requirements

Estimate (in billions of dollars)



Source: GAO analysis of Department of Labor's Benefit Accuracy Measurement data. | GAO-18-486

State officials GAO interviewed reported using multiple approaches to address work search overpayments, including using their online systems that automate collecting information on claimants' work search activities; conducting audits of claimants work search activities beyond those required; and sending automated messages to claimants regarding their work search requirements. Officials said that their approaches encouraged claimants to conduct a more active work search and prevented work search overpayments in some cases.

DOL monitors states' work search overpayment rate estimates and has helped states address such overpayments, but lacks clear procedures for how states should verify claimants' work search activities. DOL directs states to verify a "sufficient" number of work search activities during their audits but has not provided information on what is considered sufficient. DOL data show that some states did not review claimants' work search activities for a majority of audited cases. DOL officials said that the agency plans to clarify its procedures after issuing a letter about formal warnings. By clarifying these procedures, DOL will have greater assurance that states are complying with verification requirements.

Contents

Letter		1
	Background	3
	Conducting More Work Search Investigations Is Associated With Lower Estimated Work Search Overpayment Rates, As Is the Use of Formal Warnings	12
	Selected States Used Multiple Approaches to Address Work Search Overpayments, but Cited Challenges Verifying Claimants' Work Search Activities	19
	DOL Monitors States' Work Search Overpayment Rate Estimates and Provides Assistance, but Lacks Clear Procedures on Work Search Verification	23
	Conclusions	27
	Recommendations for Executive Action	28
	Agency Comments	28
Appendix I	Econometric Analysis of Estimated State Work Search Overpayment Rates	30
Appendix II	Additional Benefit Accuracy Measurement Data Tables	46
Appendix III	Summary of Six States' Work Search Requirements for Unemployment Insurance Claimants	52
Appendix IV	Comments from the Department of Labor	54
Appendix V	GAO Contact and Staff Acknowledgments	56
Tables		
	Table 1: Average State Work Search Overpayment Rate Estimates Excluding and Including Formal Warnings by State Formal Warning Use, Fiscal Year 2017	15

Table 2: Approaches Used by Six Selected States to Address Work Search Overpayments	19
Table 3: Results of Selected State Efforts to Identify and Recover Work Search Overpayments in 2016	22
Table 4: National and State Work Search Overpayment Rate Estimates, Fiscal Years 2013 through 2017	33
Table 5: Summary of State Practices and Claimant Characteristics, Fiscal Years 2013 through 2017	38
Table 6: Summary of State Use of Formal Warnings, 2013-2017	39
Table 7: Estimated Changes in State Work Search Overpayment Rates Associated with State Practices and Claimant Characteristics, Fiscal Years 2013 to 2017	42
Table 8: Estimated Overpayment Rates and Amounts by Cause, Fiscal Year 2017	47
Table 9: National Work Search Overpayment Rate Estimates and Amounts, Fiscal Years 2013 through 2017	47
Table 10: State Work Search Overpayment Rate Estimates and Amounts, Excluding Formal Warnings, Fiscal Year 2017	48
Table 11: Percentage of Cases with Claimants Required to Search for Work and Percentage for Which Job Contacts Were Investigated by State, Fiscal Year 2017	50
Table 12: Selected States' Overpayment Rate and Potential Overpayment Rate Estimates Factoring in Formal Warning Cases, Fiscal Year 2017	51
Table 13: Summary of Selected States' Work Search Requirements for UI Claimants	53

Figures

Figure 1: Process for Determining if Unemployment Insurance Claimants Met Work Search Requirements in State BAM Audits	8
Figure 2: Estimated Amount of Unemployment Insurance Overpayments by Cause, Fiscal Year 2017	9
Figure 3: Estimated Rate and Amount of Unemployment Benefits Overpaid to Claimants Not Actively Searching for Work, Fiscal Years 2013-2017	11
Figure 4: Outcomes of State Investigations of Claimant-Reported Job Contacts, Fiscal Year 2017	13
Figure 5: Percentage of UI Claimants Required to Search for Work in Each State, Fiscal Year 2017	18

Abbreviations

BAM	Benefit Accuracy Measurement Program
DOL	Department of Labor
RESEA	Reemployment Services and Eligibility Assessments
UI	Unemployment Insurance

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August 22, 2018

The Honorable Adrian Smith
Chairman
Subcommittee on Human Resources
Committee on Ways and Means
House of Representatives

Dear Mr. Chairman:

The federal-state Unemployment Insurance (UI) program provides temporary income support to eligible workers who become unemployed through no fault of their own. Individuals who claim unemployment are generally required to actively search for work as a condition of receiving benefits. However, the specific work search requirements—such as the number of weekly contacts a claimant must have with potential employers—vary by state, according to the Department of Labor (DOL).

Overseen by DOL, and administered by states, the UI program paid approximately \$30 billion to about 5.7 million individuals in 2017. The UI program had the seventh-highest reported improper payment estimate among all federal programs in fiscal year 2017 (about \$4 billion or about 12.5 percent of benefits paid).¹ Currently, the leading reported cause of UI improper payments is overpayments to claimants who failed to meet work search requirements, according to DOL data.

You asked us to review states' and DOL's approaches to address improper payments that result from UI claimants' failure to actively search for work. In November 2017, we reported that some states use formal warnings for claimants who fail to actively seek work instead of counting them as overpayments, which affects DOL's improper payment estimates, and that additional instruction from DOL could help.² In this report, we build on the findings from that prior report and provide additional information on how selected states and DOL are addressing

¹The estimate of the improper payment rate is the estimation of the following: overpayments plus underpayments as a percentage of total UI benefits paid, according to DOL documentation.

²GAO, *Unemployment Insurance: State Use of Warnings Related to Work Search Requirements Affects DOL's Improper Payment Estimates*, [GAO-18-133R](#) (Washington, D.C.: Nov. 21, 2017).

overpayments due to claimants' failure to meet work search requirements, i.e., work search overpayments.³

Specifically, we examine (1) the extent to which state administrative practices are associated with reported work search overpayments, (2) the approaches that selected states have used to address work search overpayments, and (3) the extent to which DOL oversees and supports states' progress in reducing work search overpayments.

To examine the extent to which state administrative practices are associated with reported work search overpayments, we analyzed DOL's Benefit Accuracy Measurement (BAM) Program data for fiscal years 2013 through 2017, the most recent data available.⁴ We estimated work search overpayment rates and amounts overpaid, produced descriptive statistics, and conducted a regression analysis.⁵ (See app. I for more information on our regression analysis.) We assessed the reliability of the data by (1) performing electronic testing of relevant data elements, (2) reviewing existing information about the data and the system that produced them, including results from prior audits, and (3) collecting information from DOL officials knowledgeable about the data. Based on these reviews, we determined that the data were sufficiently reliable for our purposes. Related to these administrative practices, we also reviewed relevant federal laws, regulations, and DOL guidance. We assessed DOL actions against its internal procedures and federal internal controls standards related to monitoring and communication.⁶

To identify approaches states have used to address work search overpayments, we reviewed documentation, such as work search verification procedures, and interviewed state UI officials from six states—Indiana, Nevada, New Jersey, Mississippi, Pennsylvania, and Utah—

³For the purpose of this report, we refer to these overpayments as work search overpayments.

⁴DOL's fiscal year for reporting improper payment estimates covers July 1 through June 30 of the following year. For example, DOL's fiscal year 2017 improper payment estimate covers July 1, 2016 through June 30, 2017.

⁵We developed an econometric model to analyze the relationship between states' estimated work search overpayment rates and states' administrative practices, as well as other factors captured by the BAM data that may be associated with those rates.

⁶GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept. 10, 2014).

selected for variation in work search requirements, overpayment rates, and DOL region. The information we obtained from those states is not generalizable to all states.

To determine the extent to which DOL oversees and supports states' efforts to address work search overpayments, we interviewed DOL officials from the national office and collected information from all six DOL regional offices on how they oversee state BAM systems, such as monitoring procedures and state plans submitted by our selected states. We also reviewed relevant federal laws, regulations, and DOL guidance. We assessed DOL actions against its internal procedures and relevant federal internal controls standards.⁷

We conducted this performance audit from January 2017 to August 2018 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

UI Program Administration and Funding

The federal-state UI program provides temporary cash benefits to eligible workers who lose their jobs through no fault of their own. Under this arrangement, states administer their own programs according to certain federal requirements and under the oversight of DOL's Office of Unemployment Insurance. States have considerable flexibility to set benefit amounts and their duration, or the maximum period of time that the state pays benefits, and establish eligibility requirements.

UI benefits are funded primarily through state payroll taxes on employers, and administrative costs are primarily funded through a federal payroll tax on employers. The states collect taxes that will be used to pay UI benefits, and the U.S. Department of the Treasury holds these funds in trust on behalf of the states in the Unemployment Trust Fund. DOL certifies for payment to the states administrative grants to operate their UI

⁷[GAO-14-704G](#).

programs, which amounted to about \$2.7 billion in fiscal year 2017. DOL is responsible for ensuring that state UI laws include certain provisions, which is a condition of the state receiving its UI administrative grant.

Individuals typically claim their UI benefits by filing claims with their state UI agency online or by phone on a weekly or bi-weekly basis.⁸ In fiscal year 2017, the average weekly UI benefit was about \$350, and claimants remained on the program for an average of 15 weeks, according to DOL data.

Work Search Requirements for UI Claimants

Federal law establishes a work search requirement for UI eligibility, but the specific work search activities UI claimants are expected to conduct vary by state, according to a DOL report.⁹ To be eligible for unemployment benefits, individuals are generally required to actively search for work under federal law.¹⁰ The Middle Class Tax Relief and Job Creation Act of 2012 amended the Social Security Act to, among other things, require states to have work search requirements for UI claimants specified in their laws as a condition of eligibility for the states' UI administrative grants.¹¹ Specifically, states must have laws that require UI claimants to be "actively seeking work" as a condition of eligibility for unemployment compensation for any week. Because federal law does not specifically define actively seeking work, states have some discretion to establish a reasonable definition, according to DOL's 2013 guidance to

⁸For the purposes of this report, a claimant is an individual who has applied for unemployment compensation, been found eligible, and received a first payment of benefits.

⁹Department of Labor, Employment and Training Administration, *Comparison of State Unemployment Insurance Laws* (2018).

¹⁰According to DOL's 2013 guidance to states, there are limited circumstances under which states may not hold claimants to the work search requirement. See DOL's Unemployment Insurance Program Letter No. 5-13. For example, according to DOL, states exempt claimants if they are participating in state-approved job training, and many states exempt claimants for other reasons depending on state law, such as if the worker is union-attached and finds work through the union hall, or if the claimant is on a temporary lay-off and there is a reasonable expectation that the worker will return to work soon. See Department of Labor, Employment and Training Administration, *Comparison of State Unemployment Insurance Laws* (2018).

¹¹Pub. L. No. 112-96, § 2101, 126 Stat. 156, 159, codified at 42 U.S.C. § 503(a)(12).

states.¹² For example, a state can specify a minimum number of weekly contacts a claimant must have with potential employers. Acceptable work search activities might also include searching for jobs online, submitting job applications, visiting a job center, attending a networking event, or establishing a LinkedIn account, according to a DOL report.¹³

Depending on the state, UI claimants may be directed to register for work with their state's Employment Service, which provides job search assistance, job placement assistance, and referrals to employers. In addition, in some cases UI claimants may be directed to participate in reemployment services at an American Job Center.¹⁴ In 2017, DOL provided \$115 million in grants to states to provide Reemployment Services and Eligibility Assessments (RESEA). RESEA services include in-person reemployment services and eligibility assessments in American Job Centers for ex-service members and UI claimants determined to have a high likelihood of exhausting their UI benefits. RESEA-funded activities include developing an individual reemployment plan, providing labor market information, identifying job skills and prospects, and reviewing the claimant's continued eligibility for UI benefits.

Process for Identifying Work Search Overpayments in State Benefit Accuracy Measurement Audits

DOL uses its Benefit Accuracy Measurement (BAM) system to determine the accuracy of UI benefit payments and estimate the amount and rate of improper payments. Under the BAM system, each state reviews a number of randomly selected cases on a weekly basis and reconstructs the UI claims process to assess the accuracy of the payments that were made.¹⁵ The state determines what the benefit payment should have been according to its laws and policies. States report the results of their BAM case reviews to DOL—including overpayments and underpayments—through an online data system. DOL uses the data to

¹²Department of Labor, Employment and Training Administration, Unemployment Insurance Program Letter No. 5-13, Work Search and Overpayment Offset Provisions Added to Permanent Federal Unemployment Compensation Law by Title II, Subtitle A of the Middle Class Tax Relief and Job Creation Act of 2012 (January 10, 2013).

¹³Department of Labor, Employment and Training Administration and the National Association of State Workforce Agencies, *Re-envisioning Work Search Toolkit* (2016).

¹⁴American Job Centers—formerly known as one-stop centers—offer employment and training services for jobseekers in a single location.

¹⁵Approximately 24,000 cases are drawn from states annually, with sample sizes ranging from 360 cases per year in the 10 states with the smallest UI workloads to 480 cases in the remainder of the states.

estimate improper payment rates by state, as well as to calculate a nationwide rate.

State BAM audits involve reviews of existing records in the state's UI claims information system as well as original fact-finding by the state BAM investigator. DOL requires states to use a standard claimant questionnaire when conducting BAM audits. The questionnaire includes numerous questions about the claimant's circumstances—including their work search efforts—during the week under review. The questionnaire includes questions that could indicate that a claimant qualifies for an exemption from work search requirements, or made specific job contacts and the results of the job contacts, such as whether the claimant submitted an application and received a job offer.

State BAM investigators are also expected to take steps to verify the information reported by the claimant by collecting documentation from claimants and contacting employers or other third parties.¹⁶ According to DOL's 2016 BAM annual report and BAM procedures, state BAM investigators are to review a sufficient number of work search activities to determine whether the claimant has complied with the state's minimum requirement for the number of weekly work search activities.¹⁷ The BAM program assigns one of three classifications to each of the work search activities reviewed:

- Acceptable – Documentation exists that the work search activity reported by the claimant, such as an employer contact, employment application, or other state approved work search activity, was made by the claimant and was acceptable according to the state's law or policy.
- Unverifiable – The investigator was unable to establish sufficient information to make a judgment of whether the work search activity

¹⁶Through our prior work, GAO has reported on the program integrity risks associated with relying on self-reported information to prove eligibility. See GAO, *School-Meals Programs: USDA Has Enhanced Controls, but Additional Verification Could Help Ensure Legitimate Program Access*, [GAO-14-262](#) (Washington, D.C.: May 15, 2014).

¹⁷DOL, Employment and Training Administration, *IPIA 2016 Benefit Accuracy Measurement Annual Report* (Washington, D.C.: April 2017).

was either acceptable or unacceptable according to the state's law or policy.¹⁸

- Unacceptable – Written documentation exists that the work search activity reported by the claimant was not made at all by claimant, or was made but was unacceptable according to the state's law or policy.

According to DOL's BAM annual report, work search activities classified as acceptable or unverifiable may be considered in calculating whether the claimant has satisfied the state's required number of work search activities for purposes of BAM. If the state investigator finds that the claimant's work search is unacceptable and does not meet the state's requirements, he or she may determine the claimant was ineligible for benefits and establish an overpayment, depending on state law (see fig. 1). Currently, several states have formal warning policies and provide claimants warnings for the first instance of noncompliance with work search requirements, whereas states without these policies count these cases as overpayments, according to DOL.¹⁹

¹⁸Through our prior work, GAO found that agencies vary in the treatment of insufficient documentation, both in identifying and in reporting the root causes of improper payments. See GAO, *Improper Payments: Actions and Guidance Could Help Address Issues and Inconsistencies in Estimation Processes*, [GAO-18-377](#) (Washington, D.C.: May 31, 2018).

¹⁹According to DOL, states' formal warning policies vary, and there also can be variation in how they record formal warnings in the BAM program.

Figure 1: Process for Determining if Unemployment Insurance Claimants Met Work Search Requirements in State BAM Audits



Source: GAO review of Department of Labor's Benefit Accuracy Measurement (BAM) procedures. | GAO-18-486

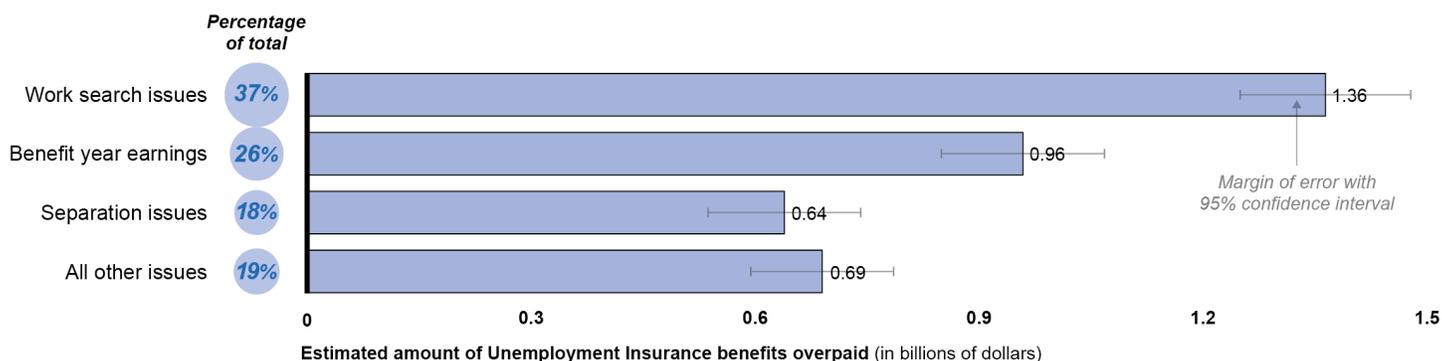
Reported Causes of UI Improper Payments

Since 2002, federal agencies have been required to identify and report improper payments.²⁰ The leading reported cause of UI improper payments in fiscal year 2017 was overpayments to claimants who failed to meet work search requirements. DOL data show that states made an estimated \$1.36 billion in overpayments to such claimants in fiscal year 2017. Other major reported causes of UI improper payments in fiscal year 2017 included payments made to individuals who continue to make claims even after returning to work (benefit year earnings) and payments made to claimants who were determined ineligible due to disqualifying job

²⁰See the Improper Payments Information Act of 2002 (IPIA), Pub. L. No. 107-300, 116 Stat. 2350, as amended by the Improper Payments Elimination and Recovery Act of 2010 (IPERA), Pub. L. No. 111-204, 124 Stat. 2224, and the Improper Payments Elimination and Recovery Improvement Act of 2012 (IPERIA), Pub. L. No. 112-248, 126 Stat. 2390 (hereinafter referred to as IPIA), codified as amended at 31 U.S.C. § 3321 note. DOL estimates and reports the improper payments for the UI program required by IPIA using the BAM system data. An improper payment is defined as any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements. It includes any payment to an ineligible recipient, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), and any payment that does not account for credit for applicable discounts. See 31 U.S.C. § 3321 note. Office of Management and Budget (OMB) guidance also instructs agencies to report as improper payments any payment for which insufficient or no documentation was found.

separations, such as quitting a job without good cause or being discharged for misconduct (separation issues). (See fig. 2. Table 8 in app. II provides greater detail.)

Figure 2: Estimated Amount of Unemployment Insurance Overpayments by Cause, Fiscal Year 2017



Source: GAO analysis of Department of Labor reports and Benefit Accuracy Measurement data. | GAO-18-486

Note: Work search issues are overpayments due to claimants' failure to meet state work search requirements. Benefit year earnings are overpayments made to individuals who continued to make claims even after returning to work. Separation issues are overpayments to claimants found ineligible due to disqualifying job separations, such as quitting a job or being discharged for misconduct. All other issues include incorrect reporting of wages used to calculate benefits, able and available to work issues, employment service registration issues, and other issues.

According to DOL officials, many UI improper payments cannot be prevented given certain legal requirements that states pay claims in a timely manner and provide claimants with due process when the state finds an eligibility issue. Specifically, according to DOL, federal law requires that when an eligibility issue is detected, the claimant has a right to receive notice and provide the state information before being denied benefits.²¹ In addition, if an eligibility issue associated with work search, or any other matter, is detected but not resolved, the state is still required to pay for a claimed week no later than the week after an eligibility issue is detected, according to DOL. The time it takes to work through the necessary due process steps can prevent states from stopping the payment before it must be paid.

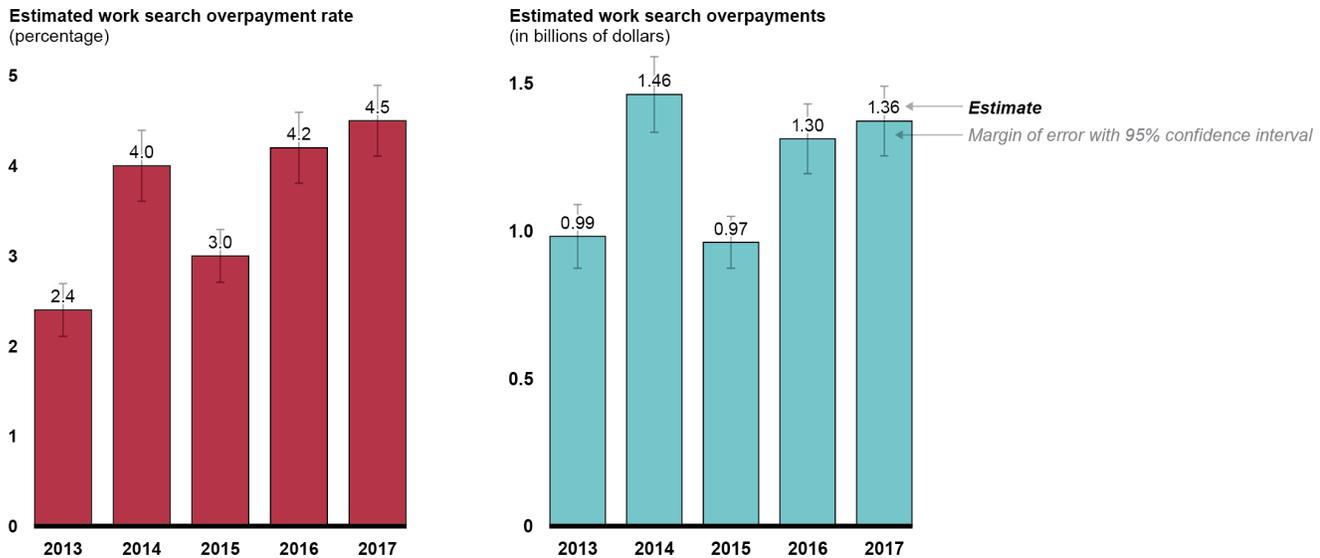
²¹For more information, see DOL, Employment and Training Administration, Unemployment Insurance Program Letter No. 04-01, *Payment of Compensation and Timeliness of Determinations during a Continued Claims Series* (October 27, 2000) and Unemployment Insurance Program Letter No. 1145, *Procedures for Implementation of the Java Decision* (November 12, 1971).

Trend in Reported Work Search Overpayments

Nationally, the estimated work search overpayment rate and the estimated amount of work search overpayments have risen in recent years. Specifically, in fiscal year 2013, approximately \$1 billion in estimated work search overpayments were made to claimants who were not actively searching for work and, in fiscal year 2017, the amount increased to close to an estimated \$1.36 billion (see fig. 3). The national work search overpayment rate for such claimants also increased during this time. (See table 9 in app. II for additional details.) According to DOL officials, some states implemented more stringent work search requirements, which may account for the recent trend. As work search requirements become more stringent, the opportunities for non-compliance and errors increase and thus higher improper payment rates, according to DOL officials. While the national work search overpayment rate was 4.5 percent in fiscal year 2017, state work search overpayment rates varied widely from an estimated 0 to 41 percent of the UI benefits that states paid in fiscal year 2017.²² (See table 10 in app. II for state-by-state estimates of work search overpayment rates and amounts.)

²²Seven states reported zero or close to zero work search overpayments for their sample of BAM cases in fiscal year 2017. The margin of error associated with the 95 percent confidence interval for the estimated 0 percent work search overpayment rates ranged from +/-0.7 to +/-0.8 percent. The margin of error associated with the 95 percent confidence interval for the state with a 41 percent work search overpayment rate was +/-4.9 percent.

Figure 3: Estimated Rate and Amount of Unemployment Benefits Overpaid to Claimants Not Actively Searching for Work, Fiscal Years 2013-2017



Source: GAO analysis of Department of Labor reports and Benefit Accuracy Measurement data. | GAO-18-486

States use various methods to recover overpayments to UI claimants, including setting up payment plans, off-setting UI benefits, or deducting refunds from federal or state income tax returns. Like all recovered UI overpayments, recoveries of work search overpayments must be deposited in the unemployment trust fund of the state that recovered the money and can be used only for the payment of UI benefits, according to DOL officials. National data are not available on the amount of work search overpayments that states have recovered because, although DOL collects recovery data from states, it does not require states to separate out work search overpayment recoveries from other types of recoveries in their reporting.

Conducting More Work Search Investigations Is Associated With Lower Estimated Work Search Overpayment Rates, As Is the Use of Formal Warnings

Based on our analysis of DOL data, we found that certain state administrative practices, including investigating a higher percentage of claimant-reported work search activities and frequent use of formal warnings, were associated with lower reported state work search overpayment rates. However, DOL recently determined that federal law does not permit states to warn claimants the first time they failed to meet work search requirements (i.e., issue formal warnings) instead of establishing that an overpayment was made. Additionally, a higher percentage of claimants required to search for work is associated with higher reported state work search overpayment rates.²³

Investigating Claimant-Reported Job Contacts Is Associated with Lower Work Search Overpayment Estimates, but the Extent to Which States Verified Contacts Varied

One of the administrative practices significantly associated with lower work search overpayment estimates was investigations of claimants' reported job contacts. Specifically, a higher percentage of cases with claimants whose contacts were investigated by the state UI agency as part of the state's BAM audit was associated with a lower work search overpayment rate estimate. According to our analysis, for every 1 percentage point increase in the percentage of cases with claimants' whose job contacts were investigated, there was a 0.072 percentage point decrease in the work search overpayment rate estimate.

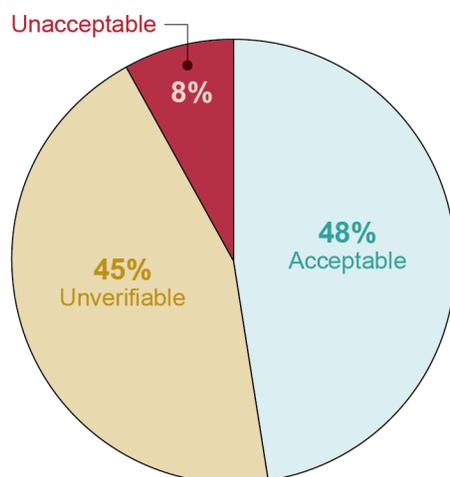
The extent to which states attempted to verify claimants' reported job contacts through these investigations varied, according to our analysis of DOL data. Nationally, in fiscal year 2017, states investigated job contacts in about 80 percent of BAM cases where claimants were required to search for work. However, among the states, the proportion of cases in which job contacts were investigated was less than 50 percent in 5 states.²⁴ (Table 11 in app. II shows the percentage of contacts that were investigated for each state.)

²³BAM data do not include variables measuring other state practices that may be associated with work search overpayment rates, such as the number and type of employer contacts claimants are required to make and the frequency and method with which claimants report their work search activities to the state.

²⁴The five states are Arkansas, Nevada, New Jersey, New York, and Pennsylvania.

Furthermore, states often were not able to verify the information claimants reported. Of the job contacts that were investigated, states reported that about 48 percent of the job contacts were acceptable, about 8 percent were unacceptable, and about 45 percent could not be verified (see fig. 5).

Figure 4: Outcomes of State Investigations of Claimant-Reported Job Contacts, Fiscal Year 2017



Source: GAO analysis of Department of Labor's (DOL) Benefit Accuracy Measurement (BAM) data. | GAO-18-486

Note: Numbers do not add to 100 percent due to rounding.

Categories in the figure are defined by DOL's BAM procedures as follows:

Acceptable – work search activities are verifiable and meet states' work search requirements

Unacceptable – work search activities reported were not conducted or did not meet state' work search requirements

Unverifiable – state investigators could not determine whether work search activities were acceptable or unacceptable

Our analysis of BAM data for fiscal year 2017 also shows that for the overpayments that states were able to detect, that a large portion were found through investigating and verifying claimants' work search contacts. Specifically, 47 percent of reported work search overpayments were found through this practice. Interviewing claimants about their work search was the next most common way states detected work search overpayments. States reported identifying 32 percent of work search overpayments in fiscal year 2017 using this practice.

Although overpayments can be the result of actions taken by the claimant or the agency administering the program, states reported that most work

search overpayments are associated with claimants. For example, claimants may provide inadequate or incorrect information needed by the UI agency to determine if the claimant met work search requirements. In fiscal year 2017, states attributed about 99 percent of overpayments at least partially to claimant action, while they attributed about 2 percent at least partially to administrative errors at the state agency.²⁵

Frequent Use of Formal Warnings Is Associated with Reporting Lower Work Search Overpayments, but DOL Recently Determined Their Use Is Legally Impermissible

According to DOL data, 22 states issued formal warnings to one or more claimants at some point between fiscal year 2013 and fiscal year 2017 for failure to meet work search requirements instead of finding that the claimants were overpaid. Although the states that made use of these warnings varied over this period, the number of states issuing formal warnings has generally increased over time from 13 states issuing formal warnings in fiscal year 2013 to 19 states in fiscal year 2017.²⁶ Overall, states that most frequently issued formal warnings had lower reported work search overpayment rates than states that did not issue formal warnings. However, their work search overpayment rates are lower because, under their state policies, they did not count an overpayment when they issued a formal warning.

Our analysis indicates that states which issued formal warnings frequently—in 75 percent or more of cases involving work search errors—had estimated work search overpayment rates that were 3.5 percentage points lower, on average, than states that did not issue formal warnings. However, states that use formal warnings less frequently—in fewer than 75 percent of cases involving work search errors—reported work search overpayment rates that were between 3 and 4 percentage points higher than states that did not issue formal warnings. See appendix I for a detailed discussion of our econometric analysis.

Table 1 shows the average work search overpayment rate estimates for each of these groups of states when formal warnings are not counted as

²⁵The state BAM auditor can assign responsibility for the payment error to more than one party. State administrative errors include instances of providing incorrect instructions to claimants or identifying and resolving an overpayment outside of the BAM audit process while a BAM investigation was ongoing.

²⁶ Although 22 states made use of formal warnings between fiscal years 2013 and 2017, not all of them consistently made use of the warnings across this period. As a result, although the number of states that used formal warnings increased over time, the states which were using this administrative practice varied in any given year.

overpayments, and the potential average work search overpayment rate when formal warnings are counted as overpayments. Excluding formal warnings, two of the groups—frequent and low users of formal warnings—had average work search overpayment rate estimates lower than the average for states that did not use formal warnings. However, when formal warnings are included in the overpayment rate, only low users of formal warnings have a work search overpayment rate estimate lower than the average for states that did not use formal warnings.

Table 1: Average State Work Search Overpayment Rate Estimates Excluding and Including Formal Warnings by State Formal Warning Use, Fiscal Year 2017

Extent of state issuance of formal warnings	Work search overpayment rate estimates, excluding formal warnings		Work search overpayment rate estimates, including formal warnings	
	Average	Margin of error (+/-)	Average	Margin of error (+/-)
Frequent	1.4	.3	19.9	1.1
Moderate	7.9	1.3	14.1	1.8
Low	4.9	1.4	5.2	1.4
None	5.5	.4	5.5	.4

Source: GAO analysis of Department of Labor’s Benefit Accuracy Measurement data. | GAO-18-486

Note: States frequently using formal warnings are states that issued formal warnings to 75 percent or more of cases with work search errors and include 13 states. States moderately using formal warnings are states that issued formal warnings to 25 to 74.9 percent of cases with work search errors and include 4 states. States that are low users of formal warnings are states that issued formal warnings to 0.1 to 24.9 percent of cases with work search errors and include 2 states. Finally, 33 states did not use formal warnings in fiscal year 2017. Estimated work search overpayment rates represent the percentage of Unemployment Insurance benefits paid. The margin of error is associated with a 95 percent confidence interval.

GAO’s analysis of DOL data shows that in fiscal year 2017, estimated work search overpayments were nearly \$1.4 billion, but potentially would have been an estimated \$1.8 billion greater if states had not issued formal warnings and established overpayments. Our analysis further shows that if formal warning cases had been included in DOL’s calculation of the UI overpayment rates for fiscal year 2017, the nationwide UI overpayment rate would have increased by about 6 percentage points, from an estimated 12 percent to an estimated 18 percent. Moreover, these figures represent an increase from the fiscal year 2016 figures we presented in our previous report on states’ use of formal warnings related to work search requirements.²⁷ At that time, we

²⁷See [GAO-18-133R](#).

found the nationwide UI overpayment rate would have increased by about 5 percentage points from an estimated 11 percent to an estimated 16 percent with the inclusion of formal warning cases. The amount of UI payments made to claimants for weeks in which they received formal warnings in fiscal year 2016 was about \$1.6 billion. Table 12 in appendix II shows how the estimated UI overpayment rate in each state issuing formal warnings in fiscal year 2017 may have increased if formal warnings were not used.

State use of formal warnings has resulted in inconsistent reporting of work search overpayments, which affects DOL's reported improper payment rate for the UI program. Specifically, states that issue formal warnings have not counted as overpayments cases in which claimants did not actively search for work and received a UI benefit payment. On the other hand, states that did not have formal warning policies counted such cases as overpayments, which are factored into DOL's reported improper payments rate. The variation among states related to formal warning policies makes it difficult for DOL and others to understand the reasons behind states' reported work search overpayments.

DOL has determined and documented in its FY 2017 Agency Financial Report that the use of formal warnings is no longer allowed under the 2012 federal law, which generally requires UI claimants to actively seek work. DOL officials told us in July 2017 they would soon issue a letter to states to inform them that they are no longer permitted to use formal warnings when they determine that claimants failed to meet work search requirements. To date, DOL has not issued such a letter. In May 2018, DOL officials told us that they expect to issue the letter by the end of calendar year 2018. Federal internal control standards direct agency management to remediate identified internal control deficiencies on a timely basis. Federal internal controls standards also state that management should externally communicate the necessary quality information to achieve the entity's objectives. Additionally, these standards state that agency management should establish and operate monitoring activities to monitor the internal control system and evaluate the results.²⁸

According to DOL officials, they began discussing the need for a potential discontinuation of formal warnings at conferences with states in the first

²⁸[GAO-14-704G](#).

half of 2017. However, we found that states continued to implement their formal warning policies, potentially resulting in an increase in the estimated amounts of overpayment dollars associated with formal warnings between fiscal year 2016 and 2017. Until DOL informs states of the need to discontinue the use of formal warnings through a letter or another mechanism, states will continue to be inconsistent in whether they count as overpayments cases in which claimants who failed to search for work in any week were provided benefits. Additionally, once DOL provides additional information to states on formal warnings, it should monitor states' responses to help ensure that DOL achieves its desired results. Furthermore, having more consistent information on overpayments related to work search issues could help DOL assess how the program is working nationwide and whether further federal and state actions would be needed to address this leading source of reported improper payments in the UI program.

DOL officials stated that the national work search overpayment rate is likely to increase in the future as states begin to eliminate their formal warning practices. Officials also stated that this may take some time as some states may need to amend laws or regulations in order to do so.

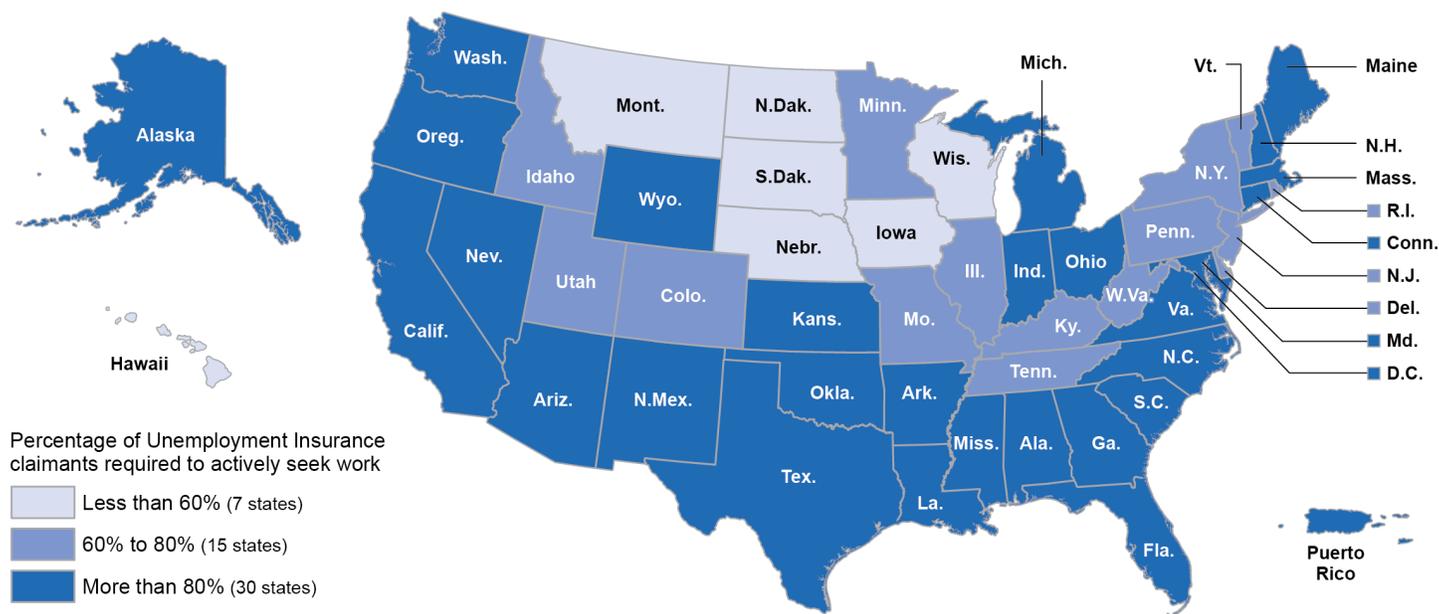
Higher Percentages of Claimants Required to Search for Work Are Associated with Higher Work Search Overpayment Rate Estimates

State work search overpayment rate estimates were higher for states where a higher proportion of claimants were required to search for work. Based on our analysis, for every one percentage point increase in the fraction of cases with claimants required to search for work, there was a 0.084 percentage point increase in the work search overpayment rate estimate on average, all else being equal.

Nationwide in fiscal year 2017, states reported that work searches have been required in 80 percent of cases, with requirements in individual states ranging from 38 to 100 percent of cases. Three states reported requiring fewer than 50 percent of claimants to perform work searches, while five states reported requiring more than 95 percent of their claimants to perform work searches. The most common reasons states exempted claimants from work searches were because claimants were "job-attached" (e.g. temporarily laid-off, recalled), or they had union deferrals because they were seeking employment through their union, according to DOL data. The map in figure 6 shows the range among all

the states in the percentage of UI claimants required to search for work, according to our analysis of DOL data for fiscal year 2017.²⁹

Figure 5: Percentage of UI Claimants Required to Search for Work in Each State, Fiscal Year 2017



Source: GAO analysis of Department of Labor reports and Benefit Accuracy Measurement data; U.S. Geological Survey (base map). | GAO-18-486

²⁹Table 11 in appendix II shows the percentage of claimants required to search for work in each state in fiscal year 2017.

Selected States Used Multiple Approaches to Address Work Search Overpayments, but Cited Challenges Verifying Claimants' Work Search Activities

Selected states used multiple approaches to address work search overpayments, including online systems to facilitate the work search reporting and verification process, work search audits beyond the BAM audits, and messaging to inform claimants of their work search responsibilities. For example, three of six states in our review had online systems where claimants could report specific work search activities as part of filing their weekly claims, according to state officials (see table 2).³⁰ Some of the approaches states used were specifically designed for UI claimants participating in state reemployment programs.

Table 2: Approaches Used by Six Selected States to Address Work Search Overpayments

Approach	Description	States that reported using this approach
Online collection of work search information through online claims system	Online system that allows claimants to report specific work search activities when filing their weekly Unemployment Insurance claims.	Mississippi Nevada Utah
Online job search and training system	Online system that claimants can use to conduct work search activities and complete job search training.	Indiana Mississippi New Jersey Pennsylvania Utah
Work search audits	State agency randomly selects cases and attempts to verify the claimant's work search (separate from the Benefit Accuracy Measurement program).	Mississippi Pennsylvania Utah
Messaging	States provide information to claimants in different formats, such as video, print, online, or on automated phone systems, to improve claimants' understanding of work search requirements and to encourage claimants to accurately report information during the claim submission process.	Indiana Mississippi Nevada New Jersey Pennsylvania Utah

Source: GAO review of information provided by state officials and confirmed by state officials. | GAO-18-486

³⁰Officials from the states we reviewed also reported varying work search requirements for UI claimants. See appendix III for a summary of the work search requirements for the six states included in our review.

State officials cited several benefits of the approaches they use to address work search overpayments. The online systems, work search audits, and messaging helped prompt work search activities and prevent work search overpayments in some cases, according to state officials. According to officials from the selected states that used them and a study on work search improper payments, online systems can facilitate the work search reporting and verification in several ways:

- **Automatically documenting the claimants' work search activities.** Online reporting of work search activities can help prevent overpayments because their work search is documented in the online claims system, which means the claimant does not need to keep a work search log.³¹ In addition, online job search/training systems can be used to track the work search activities completed by claimants, making it easier for the state to verify that the work search was completed. For example, officials in Mississippi and Indiana told us they piloted an online system called NextJob and required RESEA program participants to conduct work search activities through the system. Mississippi officials reported that NextJob motivated claimants to conduct their job search and increased the speed of reemployment among these individuals. Similarly, New Jersey officials told us that UI claimants selected to participate in New Jersey's RESEA program are required to use an online job search and training system called OnRamp, which, for example, allows job seekers to create or upload their resume on the website, search for jobs, access online training, and receive email alerts on potential job matches. In addition, officials in Nevada said that the online reporting system is beneficial because the work search activities are documented in the system and are more reliably retrieved if the claimant is selected for a BAM audit because few claimants maintain and retain their work search effort logs.
- **Performing automated checks on data the claimants submit.** The online claims systems can identify potentially duplicate job contacts and check whether the claimant reported the required number of job contacts. For example, Utah officials reported that if a claimant enters job contacts from another week, officials would follow up with the claimant by phone after it is flagged by their online system. If

³¹Nathan Wozny, Andrea Mraz Esposito, Andrew Clarkwest, Chelsea Swete, and Ji-Hyeun Kwon-Min. "Recommendations to OUI in Support of Efforts to Reduce Work Search Improper Payments." Mathematica Policy Research (Washington, D.C.; February 2012).

claimants report self-disqualifying information, such as an insufficient number of job contacts, the system can automatically put a hold on a claim until the issue is resolved.

- **Facilitating communication with the claimant.** Some states added messages to their online claims system that pop up if the claimant enters incorrect or insufficient information. For example, Mississippi officials stated that they used messaging to better inform claimants of their responsibilities and to encourage them to report accurate information. According to the officials, if claimants do not report the required number of work search activities in the online system, a questionnaire will pop up requesting that the claimants explain why they did not do so. The system requires the claimants to enter more information in order to submit their claims and to receive their benefit payments. Mississippi officials also stated that adding targeted messaging resulted in fewer denials of benefits due to claimant failure to meet work search requirements and also reduced the number of appeals related to this type of denial. Some state officials said that messaging encouraged accurate reporting. For example, Indiana officials told us that at the end of the online claim filing process, claimants receive a message notifying them of the state's work search requirements and informing them that they are required to search for work to continue receiving benefits. In Utah, officials developed a video that covers claimants' responsibilities, including work search requirements, which claimants must view before receiving their initial benefit payment, according to state officials.

Officials in three of the states we reviewed reported using additional work search audits beyond BAM to help reinforce their state policies. Pennsylvania officials reported conducting 7,182 work search audits for RESEA program participants in 2016. As a result, officials reported that the state issued 1,300 warnings to claimants. The two other states—Mississippi and Utah—report that their random work search audits, coupled with their online systems, helped prevent work search overpayments as they are able to disqualify claims before the payment goes out. Mississippi and Utah officials also reported that they were also able to identify and recover some work search overpayments (see table 3).

Table 3: Results of Selected State Efforts to Identify and Recover Work Search Overpayments in 2016

State	Number of claim denials due to work search non-compliance	Number of work search overpayments identified	Amount of work search overpayments	Recoveries of work search overpayments
Mississippi	22,858	2,110	\$413,706	\$339,045
Utah ^a	7,450	400	\$146,298	\$41,072

Source: GAO review of information provided by state officials. | GAO-18-486

^a The numbers are for the reporting year covering July 1, 2015 to June 30, 2016.

Despite implementing these approaches, state officials in five of the six states we contacted told us they face challenges with verifying work search activities. These officials stated that they have difficulty verifying work search activities as some claimants do not understand the work search requirements or do not keep accurate records of their work search activities, which makes it difficult for the state to confirm compliance with the state requirements. In addition, state officials also said that many employers do not keep records of job seekers' inquiries or do not respond to state requests for information when they are trying to verify claimants' work search activities. For example, Nevada officials said that work search contacts are often virtually unverifiable as many companies outsource their hiring processes to contractors who refer the job candidate for a job posting and keep the job application. Officials said these contractors also rarely respond to state inquiries about claimants' job applications. As discussed later, DOL has provided states tools to help address this issue, such as a messaging toolkit to help states improve communications with claimants and employers.

**DOL Monitors States’
Work Search
Overpayment Rate
Estimates and
Provides Assistance,
but Lacks Clear
Procedures on Work
Search Verification**

**DOL Monitors States’
Work Search
Overpayment Rate
Estimates and Has
Identified Strategies and
Provided Tools to Help
States Reduce Their
Rates**

DOL uses UI performance data to monitor state progress in reducing the estimated improper payment rate, including data on overpayments to claimants who failed to meet work search requirements. To do so, DOL requires states to submit State Quality Service Plans, which serve as the performance reporting and grant application documents through which states receive administrative funding. The plans include a summary of state performance on various measures related to operating the UI program, including the improper payment rate, according to DOL documentation we reviewed. States with estimated improper payment rates of 10 percent or more are required to submit corrective action plans to DOL. For example, data from two of the six states we reviewed—Nevada and New Jersey—had estimated improper payment rates above 10 percent during DOL’s most recent planning cycle and developed corrective action plans. Nevada’s corrective action plan noted that the state expects their rate to decline due to their June 2017 implementation of online work search reporting as part of their UI claims system. New Jersey’s corrective action plan noted that the state plans to implement new online tools that will help them verify wage and employment information. DOL separately monitors each state’s estimated work search overpayment rate. In addition, all states, including those who estimated improper payment rates of less than 10 percent, are required to prepare a state-specific action plan that describes the root causes of improper

payments and the state's strategies to address them.³² According to agency officials, DOL reviews plans to monitor state performance and help states identify strategies to improve performance.

Although DOL requires states with estimated improper payment rates of 10 percent or more to develop corrective action plans, according to DOL, the agency has limited options to require state UI agencies to take actions to respond to high improper payment rates. DOL officials told us that, beyond routine monitoring and providing states with technical assistance to help reduce their improper payments rate, their enforcement options are limited to withholding the state's administrative funding or removing federal tax credit reductions, which is, in effect, a tax increase for the state's employers. According to DOL officials, both are considered extraordinary sanctions that require significant due process. The agency has not withheld state administrative funding to address improper payments, according to DOL officials. DOL officials also told us that they are concerned about the effects on UI claimants if they were to withhold administrative funding. The administration's fiscal year 2019 congressional budget justification includes a legislative proposal that would authorize the Secretary of Labor to require states to implement corrective action measures for poor state performance in the UI program, helping to reduce improper payments in states with the highest estimated rates.

DOL has identified strategies to address the leading causes of UI improper payments—including work search issues—and provided states tools and funding to help implement them. For example:

- **Pathway to Reemployment Framework.** In 2016, DOL and the National Association of State Workforce Agencies published a framework that contained a broad menu of work search options that states could adopt to better reflect how individuals search for work, such as allowing use of online job search tools to count as an

³²DOL identifies states as "high priority" and in need of more intensive technical assistance after reviewing state performance data, including the estimated improper payment rate. High priority states receive an on-site review by a team of experts, and DOL works with the states to identify strategies and action steps to improve performance. States are subject to increased DOL monitoring and technical assistance until they implement the corrective actions identified in the on-site review and sustain performance for at least six consecutive months.

approved work search activity.³³ The framework also includes suggestions for how states could document or verify claimants' work search activities for eligibility purposes.

- **Messaging toolkit.** In 2012, DOL published a messaging toolkit designed in part to improve claimants' understanding of work search requirements as a condition of eligibility for benefits.³⁴ According to DOL, claimants who fully understand their responsibilities and the consequences of not fulfilling them may be more likely to complete the required work search activities, thereby reducing instances of claimants' failing to search for work. DOL provided states supplemental funding to support improved messaging and tracked state implementation of the strategies.
- **Online tool to record work search activities.** In 2011, DOL provided supplemental funding to New York to develop an online work search record that could be replicated by other states. This tool is designed to reduce improper payments that result from inadequate documentation of work search activities. Claimants can use the tool to record their work search online when they file their UI claims. The work search record is automatically shared with state job centers, which in turn act to enhance claimants' work search and connect claimants with jobs. New York used open source technologies when designing the tool in an effort to help more states replicate the product at a lower cost.
- **UI Integrity Center.** The DOL-funded UI Integrity Center of Excellence (UI Integrity Center) was established as a way to help states develop and share innovative strategies to prevent and detect UI improper payments, reduce fraud, and improve program integrity.³⁵ For example, the UI Integrity Center funded a pilot project in 2016 to support a state in implementing an online tool that trains claimants on how to effectively search for jobs and allows claimants to use the tool to complete their work search activities. The UI Integrity Center also hosted national conferences in 2016 and 2018 that included presentations on state practices to address work search improper payments.

³³Department of Labor, Employment and Training Administration and the National Association of State Workforce Agencies, *Pathway to Reemployment Framework* (2016).

³⁴Department of Labor, Employment and Training Administration, *UI Claimant and Employer Message Toolkit* (Washington, D.C.: Jan. 5, 2012).

³⁵The UI Integrity Center is operated by the National Association of State Workforce Agencies.

DOL Directs States to Investigate a Sample of Claimants' Work Searches, but Has Not Clarified Procedures on Verifying Work Search

Although DOL monitors states' work search overpayment rate estimates and has provided assistance to help states address such overpayments, it has provided limited direction to states on the level of effort states must make to verify whether claimants are actively searching for work. Specifically, DOL's BAM procedures direct states to investigate a sufficient number of work search contacts in its BAM sample of UI cases to determine if the claimants met the state's work search requirement.³⁶ However, DOL has not provided states any additional direction on what is considered "sufficient." As previously mentioned, the extent to which states attempted to verify job contacts from claimants' work searches varied across states.³⁷ Some states reported to DOL that they did not investigate work search activities for a majority of their BAM cases even though work search was required and the claimant reported job contacts.

Federal internal control standards state that agency management should externally communicate the necessary quality information to achieve its objectives, including addressing related risks.³⁸ According to DOL officials, the agency plans to clarify its BAM procedures, to include providing more definitive instructions to states on work search verification requirements, after the agency issues its planned letter to states about discontinuing the use of formal warning policies. As of May 2018, the agency said it plans to issue the letter on formal warning policies by the end of calendar year 2018. However, as previously stated, it has been nearly a year since DOL initially told us they were planning to issue the letter to states.

Effective monitoring of state compliance with the clarified work search verification requirements will also be important once DOL revises its BAM procedures. Federal internal control standards state that agency management should establish and operate monitoring activities to monitor the internal control system and evaluate the results. Monitoring states' responses could help ensure that DOL achieves its desired results. By

³⁶U.S. Department of Labor, Employment and Training Administration, *Benefit Accuracy Measurement State Operations Handbook, ET Handbook No. 395, 5th Edition* (Washington, D.C.: Nov. 2009).

³⁷As previously mentioned, the proportion of cases in which job contacts were investigated ranged from less than 50 percent in 5 states, between 80 and 94 percent in 17 states, and between 95 and 100 percent in 16 states.

³⁸[GAO-14-704G](#).

providing clear direction to states about work search verification requirements and monitoring states' implementation of these requirements, DOL would have greater assurance that states are complying with its requirements.

Conclusions

The health of the UI program depends, in part, on the ability of states to control its benefit payments by accurately determining individuals' eligibility. Improper payments, including overpayments, in the UI program have led to billions of federal and state funds being used inappropriately.

Actively seeking work has generally been an eligibility requirement for individuals receiving unemployment benefits under federal law since 2012, but states have not consistently implemented the requirement for claimants in similar circumstances. States with formal warning policies reported lower work search overpayments not necessarily because they are better at ensuring claimants' compliance with requirements, but because they are not counting cases where claimants receive formal warnings as overpayments. Furthermore, although DOL determined in 2017 that states are not permitted to issue formal warnings rather than reporting an overpayment, it has not officially told states to stop using warnings. Without providing states with this information and monitoring their response, states will continue to report inconsistent information on the extent of work search overpayments.

State efforts to check whether claimants are meeting work search requirements also vary. Our evidence suggests that states making a greater effort to investigate work search activities tend to have lower overpayment rate estimates associated with this issue. However, some states are not investigating claimant-reported work search activities as part of their BAM audits despite DOL's procedures directing them to do so. Until DOL provides clear direction to states about verifying work search and monitors state compliance, DOL has little assurance that states are complying with its requirements.

Recommendations for Executive Action

We are making the following four recommendations to the Department of Labor:

- The Assistant Secretary of DOL's Employment and Training Administration should provide states with information about its determination that the use of state formal warning policies is no longer permissible under federal law. (Recommendation 1)
- The Assistant Secretary of DOL's Employment and Training Administration should monitor states' efforts to discontinue the use of formal warning policies. (Recommendation 2)
- The Assistant Secretary of DOL's Employment and Training Administration should clarify information on work search verification requirements in its revised Benefit Accuracy Measurement procedures. The revised procedures should include an explanation of what DOL considers to be sufficient verification of claimants' work search activities. (Recommendation 3)
- The Assistant Secretary of DOL's Employment and Training Administration should monitor states' compliance with the clarified work search verification requirements. (Recommendation 4)

Agency Comments

We provided a draft of this report to the Department of Labor (DOL) for review and comment. In its written comments, reproduced in appendix IV, DOL agreed with all four of our recommendations and stated that it would take action to address them. DOL also provided technical comments, which we incorporated as appropriate. Additionally, we provided excerpts of the draft report to state UI officials in the selected six states we included in our review. We incorporated their technical comments as appropriate.

As agreed with your office, unless you publicly announce the contents of this report earlier, we plan no further distribution until 30 days from the report date. At that time, we will send copies to the appropriate congressional committees, the Secretary of the Department of Labor, and other interested parties. In addition, the report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at 202-512-7215 or brownbarnesc@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix V.

Sincerely yours,

A handwritten signature in cursive script that reads "Cindy S. Barnes". The signature is written in black ink and is positioned below the "Sincerely yours," text.

Cindy Brown Barnes
Director, Education, Workforce,
and Income Security Issues

Appendix I: Econometric Analysis of Estimated State Work Search Overpayment Rates

Data

We used the Department of Labor’s (DOL) Unemployment Insurance Benefit Accuracy Measurement (BAM) data. The BAM program is designed to determine the accuracy of paid and denied claims for unemployment insurance (UI) in three major UI programs—state UI, Unemployment Compensation for Federal Employees (UCFE), and Unemployment Compensation for Ex-Servicemembers (UCX). The BAM data covers claimants in the 50 U.S. states, the District of Columbia, and Puerto Rico.¹ Each week, state workforce agencies select random samples of paid and denied unemployment insurance claims (i.e., cases). State BAM investigators then audit these cases to determine whether the claimant was properly paid or was properly denied benefits in the week for which the claim was made (i.e., key week). The bases for determining whether paid and denied claims were accurate are federal and state law, regulations, and policy.

We used BAM cases for paid claims for all UI programs and all states for fiscal years 2013 through 2017.² The number of cases for each state is determined by DOL for each year. Cases are chosen randomly each week from the population of claims for that week. The normal weekly number of paid claims sampled in most states is 9, with a minimum of 6, for an annual sample of around 480 cases. For the 10 states with the smaller UI workloads, the normal weekly number of paid claims sampled is 7, with a minimum of 5, for an annual sample of around 360 cases.

For each paid claim case, the BAM data include variables describing the claimant, as well as information on their UI benefit year, separation from their last job, monetary eligibility, benefit payment history, employment services registration and work search, and the outcome of the BAM investigation. For cases for which BAM auditors identify errors, the BAM data also include information on the errors. In 2016, work search issues, benefit year earnings, and separation issues were the most common causes of reported overpayments:

- *Work search issues.* These occur when the state finds that claimants did not actively search for work during the key week. Federal law

¹We refer to the 50 U.S. states, the District of Columbia, and Puerto Rico collectively as “states.”

²DOL’s fiscal year for reporting improper payment estimates covers July 1 through June 30 of the following year. For example, DOL’s fiscal year 2017 improper payment estimate covers July 1, 2016 through June 30, 2017.

generally requires people receiving unemployment compensation to be actively searching for work. States have discretion to establish requirements for what constitutes active work search, and these requirements vary by state.

- *Benefit year earnings issues.* These occur when claimants have earnings that exceed the threshold for UI eligibility in their state or when these earnings are not properly reported.
- *Separation issues.* These occur when claimants are ultimately determined to be ineligible for UI due to disqualifying job separations, such as quitting a job without good cause or being discharged for misconduct under the state UI law.

Other causes of overpayments include incorrect reporting of wages used to calculate benefits, able and available to work issues, employment service registration issues, and other issues. For some cases, BAM investigators identify multiple errors with different causes. When this occurs, BAM investigators determine the overpayment amount associated with each cause.

BAM sample data is weighted to make inferences about the population. In accordance with DOL's method, we calculated the weight on each BAM sample case as (1) the number of unemployment compensation payments to claimants for the state and the week from which the BAM sample case was selected divided by, and (2) the number of completed BAM sample cases for that week, as long as there were two or more completed cases for the week.

Because each state followed a probability procedure based on random selections to pick cases, the BAM sample is only one of a large number of samples that they might have drawn. Since each sample could have provided different estimates, we express our confidence in the precision of the BAM sample's results using confidence intervals. For example, a 95 percent confidence interval is the interval that would contain the actual population value for 95 percent of the samples that could have been drawn. In some tables we provide the margin of error instead of the confidence interval, where the margin of error is the half-width of the confidence interval.

Our analysis sample consists of cases with no missing or invalid values of variables used in our analysis that also have positive sample weights. Our analysis sample includes 98.1 percent of all cases.

Estimated Overpayment Rates
Due to Failure to Meet Work
Search Requirement

In accordance with DOL's method, the estimated overpayment rate is equal to the amount of UI benefits overpaid as a percentage of the total amount of UI benefits paid. The amount of UI benefits overpaid includes fraud, nonfraud recoverable, and nonfraud nonrecoverable overpayments; and overpayments from all causes and responsible parties. The amount overpaid excludes overpayments that DOL considers as technically proper. An overpayment may be considered technically proper by DOL under a finality rule, which generally means that too much time has passed between the decision to pay the claimant and the detection of the eligibility issue, or for some other reason. Our estimated work search overpayment rate is calculated using the same method as the official overpayment rate and is generally comparable to work search overpayment rates reported by DOL.³

More specifically, we used the BAM data to identify cases with overpayments and with overpayments due to work search, excluding formal warnings and other payments DOL considers to be technically proper. Next, we applied DOL's proration algorithm to allocate overpayment amounts for each error associated with a case so that the total amount of overpayments from all errors does not exceed the key week amount paid. Then, we calculated the total overpayment amount and work search overpayment amount for cases with overpayments and work search overpayments, respectively. Finally, we tracked the key week amount paid for each case. To estimate the work search overpayment rate for each state and fiscal year, we calculated the weighted sum of work search overpayment amounts as a percentage of the weighted sum of amounts paid.

Table 4 shows the estimated national work search overpayment rate, the average estimated state work search overpayment rate, and the median estimated state work search overpayment rate for each fiscal year. The national work search overpayment rate estimate has increased from 2.4 percent in 2013 to 4.5 percent in 2017. Over the same time period, the average state work search overpayment rate estimate has increased from 2.6 to 4.6 percent, and the median state work search overpayment rate

³For the purpose of this report, we refer to overpayments due to claimants' failure to meet work search requirements as work search overpayments.

estimate has increased from 1.4 percent to 2.7 percent.⁴ Most states' work search overpayment rate estimates are less than 5 percent, but some states' rates are more than 10 percent.

Table 4: National and State Work Search Overpayment Rate Estimates, Fiscal Years 2013 through 2017

Percentage

	2013	2014	2015	2016	2017
National work search overpayment rate estimate	2.4	3.9	2.9	4.1	4.5
	[2.2, 2.7]	[3.6, 4.2]	[2.7, 3.2]	[3.8, 4.5]	[4.1, 4.9]
State work search overpayment rate estimate					
Average	2.6	4.3	4.2	4.5	4.6
Minimum	0.0	0.0	0.0	0.0	0.0
10th percentile	0.0	0.0	0.0	0.0	0.0
25th percentile	0.1	0.3	0.4	1.2	0.4
Median	1.4	2.2	3.0	2.5	2.7
75th percentile	4.4	7.8	6.1	7.2	5.8
90th percentile	7.2	9.6	10.5	11.1	11.9
Maximum	10.8	18.2	15.8	26.7	40.7

Source: GAO analysis of the Department of Labor's Benefit Accuracy Measurement data. | GAO-18-486

Notes: Work search overpayment rate estimates were calculated using cases in analysis sample. For the national work search overpayment rate estimate, 95 percent confidence intervals are in brackets. The margins of error associated with 95 percent confidence intervals for state work search overpayment rate estimates are no more than 4.9 percentage points each year.

Factors Associated with Work Search Overpayments

To identify state practices and other factors that may be associated with state work search overpayment rates, we reviewed DOL documents describing the BAM program and summarizing key features of states' UI programs, as well as research on factors associated with time claimants spend searching for employment. Based on our review, we identified factors that may be associated with work search overpayments that can be measured using variables in the BAM data:

- *Exemptions from work search requirements.* According to DOL, while federal law generally requires claimants to be actively seeking work, it

⁴The average state work search overpayment rate estimate in 2017 is statistically significantly different from the average state work search overpayment rate estimate in 2013 at the 5 percent level. The median state work search overpayment rate estimate in 2017 is not statistically significantly different from the median state work search overpayment rate estimate in 2013 at the 10 percent level.

does allow states to exempt claimants in some circumstances. For example, according to DOL, because states may not deny benefits to an individual in approved training, all states provide an exemption from the requirements to be able and available for work and conducting an active work search for any week the individual is in approved training. In addition, according to DOL, some states allow work search exemptions if the worker is union-attached and finds work through the union hall, or if a separation is classified as a temporary lay-off and there is a reasonable expectation that the worker will return to work soon. According to DOL, other state work search exemptions include that the worker has a specified start date for new employment, has jury duty, has a compelling personal reason, is in a labor dispute with the employer, is the victim of domestic violence, or labor market or other information indicates no suitable employment.

It is possible for a case with a claimant who indicated he or she was not required to search for work to have a work search error if the claimant provided an invalid reason for being exempt from his or her state's work search requirement. For example, the claimant may have said that he or she was a member of a union with a hiring hall and obtained employment through union referrals or that he or she had a definite recall date, and therefore, the work search requirement was waived. However, the BAM investigator's verification with the union found that the claimant was not in good standing, or the investigator's verification with the employer found that the claimant had no definite recall date. In such a situation, the claimant might be held ineligible for a failure to conduct an active work search because the exemption was invalid.

- *Claimant response.* According to DOL, the claimant interview anchors the BAM audit and is a major error detection point, and the claimant questionnaire is a required standard form. Claimants may provide information for the BAM audit either in person, over the phone, or via mail or some other method. Some claimants may not respond to the audit at all. For the period from 2013 to 2017, of the work search overpayments that BAM auditors detected in their BAM sample of cases, about 37 percent of cases were uncovered during the claimant interview.
- *State investigation of job contacts.* Claimants are asked to provide information about job contacts as evidence that they were actively searching for work as part of the required claimant questionnaire. In addition, even if the claimant does not respond to the BAM audit, job contacts may be available for BAM auditors to investigate if the state's

continued claim process captured the claimant's work search information. BAM staff must investigate a sufficient number of contacts to establish whether the claimant has met the state's work search requirement. For the period from 2013 to 2017, of the work search overpayments that BAM auditors detected in the BAM sample of cases, about 45 percent were uncovered by investigating claimant-provided job contacts.

- *State use of formal warnings.* If the BAM audit of a case determines that the claimant's work search during the key week was not acceptable, the state might issue a formal warning to the claimant instead of finding that the claimant received a work search overpayment, and these cases are not included in the calculation of the work search overpayment rate for that state. Over the period from 2013 to 2017, of the BAM sample of cases for which work search errors were identified, state workforce agencies issued formal warnings for about 46 percent.
- *Claimant demographic and other characteristics.* Characteristics of claimants that are associated with the amount of time claimants spend searching for work include age, education, gender, length of time between initial claim and key week, and weekly benefit amount as a percentage of the normal weekly wage in the claimant's industry. To the extent that they affect time spent searching for work, these characteristics may also be associated with the likelihood of claimants receiving a work search overpayment.

Some factors that may be associated with work search overpayments cannot be measured using variables in the BAM data and, thus, are excluded from our analysis. Examples include:

- *Minimum number of work search activities.* According to DOL, the minimum number of work search activities required per week varies across states and can vary based on labor market conditions, which can, for example, produce different requirements in a rural area versus an urban area. However, some states do not specify a required number of work search activities and instead require that the number of work search activities be "reasonable," according to a DOL report.⁵
- *Type of required employer contacts.* According to DOL, some states allow claimants to search for part-time work as well as full-time work,

⁵Department of Labor, Employment and Training Administration, *2016 Comparison of State Unemployment Insurance Laws*.

while others do not. In addition, according to DOL, some states specify that participation in reemployment services counts as a contact, and some states require claimants to make at least one contact through the state online system.

- *Frequency and method of reporting.* According to DOL, some states require weekly claimant reporting of work search activities, while others require bi-weekly reporting. In addition, according to DOL, some states require claimants to report online as part of their continued claim, while others require claimants to keep a log of their work search activities.

Econometric Model

Our econometric model is the following:

$$\begin{aligned} \text{work search overpayment rates}_{s,y} = & \alpha + \beta * \text{work search required}_{s,y} + \\ & \gamma_1 * \text{n-person responses}_{s,y} + \gamma_2 * \text{telephone responses}_{s,y} + \gamma_3 * \text{mail, email,} \\ & \text{fax, or other responses}_{s,y} + \delta * \text{contacts investigated}_{s,y} + \phi_1 * \text{low formal} \\ & \text{warning uses}_{s,y} + \phi_2 * \text{moderate formal warning uses}_{s,y} + \phi_3 * \text{requent} \\ & \text{formal warning uses}_{s,y} + X_{s,y}'\Theta + \text{year indicators} + \varepsilon_{s,y}, \end{aligned}$$

where *s* and *y* denote state and year, respectively, and the explanatory variables in the model are the following:

- *Work search required* is the estimated fraction of cases with claimants for whom work search is required, according to the BAM data.
- *In-person response*, telephone response, and mail, email, fax, or other response are the estimated fractions of cases with claimants who responded to the BAM audit in person, by telephone, or by mail, email, fax, or other method, respectively.
- *Contacts investigated* is the estimated fraction of cases for which BAM auditors investigated one or more job contacts.
- *Low, moderate, and frequent formal warning use* are binary indicator variables equal to 1 if the state issued a low, moderate, or high number of formal warnings in the fiscal year as a percentage of BAM cases with work search errors, respectively, and 0 otherwise. We defined low formal warning states as those that issued formal warnings for some but less than 25 percent of the cases with work search errors, moderate formal warning states as those that issued formal warnings for at least 25 percent but less than 75 percent of cases with work search errors, and high formal warning states as those that issued formal warnings for anywhere from 75 to 100

percent of cases with work search errors. The omitted group is states that issued no formal warnings during the fiscal year.

- X is a list of other characteristics of claimants that may be associated with work search, including the estimated distributions of cases across claimants' age groups, education levels, gender, length of time between initial claim and key week, and weekly benefit amount as a percentage of the normal weekly wage for their occupation.
- ε is an error term.

The parameters of interest in our econometric model are β , γ_1 , γ_2 , γ_3 , δ , ϕ_1 , ϕ_2 , and ϕ_3

- The parameter β is an estimate of the change in the work search overpayment rate associated with a 1 percentage point increase in the fraction of cases with claimants who were required to search for work, all else being equal.
- The parameter γ_1 is an estimate of the change in the work search overpayment rate associated with a 1 percentage point increase in the fraction of cases with claimants who responded to the BAM audit in person, all else being equal. The parameters γ_2 and γ_3 are estimates of the change in the work search overpayment rate associated with a 1 percentage point increase in the fraction of cases with claimants who responded to the BAM audit by telephone and by mail, email, fax, or other method, respectively, all else being equal.
- The parameter δ is an estimate of the change in the work search overpayment rate associated with a 1 percentage point increase in the fraction of cases for which BAM auditors investigated one or more job contacts, all else being equal.
- The parameters ϕ_1 , ϕ_2 , and ϕ_3 are estimates of the changes in the work search overpayment rate associated with state issuance of a low, moderate, and high number of formal warnings, respectively, relative to states that issued no formal warnings.

For our baseline specification, we estimated the parameters using fractional response models to account for the unit interval range of the dependent variable, and we calculated standard errors clustered by state to allow for arbitrary correlation between the errors for a state in different years. To assess the robustness of our results, we also estimated the parameters using models with robust standard errors, using a single indicator variable to capture claimant response to the BAM audit versus nonresponse, and using linear models.

Table 5 shows descriptive statistics for the explanatory variables, other than formal warnings.

Table 5: Summary of State Practices and Claimant Characteristics, Fiscal Years 2013 through 2017

	Average for fiscal year				
	2013	2014	2015	2016	2017
Percentage of cases with claimants required to search for work	76.8	76.9	77.6	78.9	78.3
Percentage of cases with claimants who responded to the BAM audit...					
...in-person	14.1	12.0	9.3	8.0	6.7
...by telephone	37.1	38.4	39.4	40.3	38.7
...by mail, email, fax, or some other method	41.9	41.7	42.8	42.1	44.0
Percentage of cases with claimants who did not respond to the BAM audit	6.9	7.9	8.5	9.7	10.7
Percentage of cases for which BAM auditors investigated job contacts	62.9	65.2	66.2	67.8	66.0
Percentage of cases with claimants who are...					
...age 14-24	7.3	6.7	6.1	5.5	5.1
...age 25-34	24.0	22.9	23.1	22.8	22.2
...age 35-44	21.9	22.0	21.9	21.6	22.1
...age 45-64	42.0	43.0	43.4	43.9	44.6
...age 65 and over	4.8	5.4	5.6	6.2	6.0
Percentage of cases with claimants who have...					
...no high school diploma or GED	12.2	11.8	11.3	11.3	10.2
...a high school diploma or GED	42.4	41.2	41.5	41.8	41.2
...some college or an associate's degree	30.3	30.6	30.6	30.1	30.1
...a bachelor's degree or more education	15.0	16.4	16.5	16.8	18.5
Percentage of cases with female claimants	41.2	42.6	41.3	40.6	41.4
Percentage of cases with claimants who have received unemployment insurance benefits for...					
...0 to 4.9 weeks	10.6	7.4	8.2	7.8	11.2
...5 to 14.9 weeks	41.5	41.6	43.6	44.1	43.3
...15 to 26.9 weeks	31.0	32.3	30.0	30.2	28.9
...27 to 51.9 weeks	15.7	17.2	16.5	16.2	15.2
...52 weeks or more	1.2	1.5	1.7	1.8	1.4
Percentage of cases with claimants whose weekly benefit amount as a percentage of the normal weekly wage for their occupation is...					
...0 to 19.9 percent	6.5	7.0	6.1	7.5	7.6
...20 to 39.9 percent	30.5	31.0	31.6	30.9	32.0
Percentage of cases with claimants whose weekly benefit amount as a percentage of the normal weekly wage for their occupation is...					
...40 to 59.9 percent	44.5	44.1	44.0	43.4	42.9

**Appendix I: Econometric Analysis of Estimated
State Work Search Overpayment Rates**

	Average for fiscal year				
	2013	2014	2015	2016	2017
...60 to 79.9 percent	15.3	14.8	15.0	15.1	14.4
...80 percent or more	3.2	3.1	3.2	3.2	3.0
Millions of weeks of paid claims	2.6	2.3	2.0	1.8	1.7

Source: GAO analysis of the Department of Labor's Benefit Accuracy Measurement data. | GAO-18-486

Notes: Estimated average percentages were calculated using sample weights to reflect the sample design of the Benefit Accuracy Measurement data. All estimated average percentages have a margin of error no greater than plus or minus 1.3 percentage points at the 95 percent level of confidence.

Table 6 shows descriptive statistics for states' use of formal warnings.

Table 6: Summary of State Use of Formal Warnings, 2013-2017

	Fiscal year				
	2013	2014	2015	2016	2017
Number of states that issued formal warnings to...					
...0 BAM cases with work search errors	39	37	36	35	33
...0.1 to 24.9 percent of BAM cases with work search errors	2	3	1	2	2
...25 to 74.9 percent of BAM cases with work search errors	2	3	3	3	4
...75 to 100 percent of BAM cases with work search errors	9	9	11	12	13

Source: GAO analysis of the Department of Labor's Benefit Accuracy Measurement (BAM) data. | GAO-18-486

Notes: For each state and fiscal year, the fraction of cases with work search errors that received formal warnings were calculated using unweighted numbers of cases. Using sample weights to reflect the sample design of the Benefit Accuracy Measurement data produces similar fractions of cases that lie within the same interval for each state and fiscal year.

Caveats and Limitations

Our analysis is subject to several limitations, and the results we discuss below should be interpreted with caution.

- *No causality.* Our econometric approach can establish correlations between state work search overpayment rate estimates and the factors we analyzed, but it cannot establish causal relationships. This limitation is especially important when it comes to interpreting the relationship between work search overpayment rate estimates and the fraction of cases for which BAM auditors investigated job contacts. BAM investigations can only detect work search overpayments, not prevent them, because BAM investigators are reviewing cases after the payment has already been made. Preventing work search overpayments is the only way to reduce the work search overpayment rates. Thus, the relationship between investigation of claimant-provided contacts and work search overpayment rates likely reflects not a causal relationship but an equilibrium relationship in which

claimants who know that their job contacts will be investigated are more likely to search for work, all else being equal.⁶

- *Nongeneralizability.* Our results do not generalize to other time periods with different labor market conditions, different rules and regulations about unemployment insurance, or other differences.
- *Omitted variables.* As discussed above, we have excluded from our models some state practices that may be associated with work search overpayments because those variables were not included in the BAM data. For example, we do not account for the fact that, according to DOL, some states require claimants to engage in more work search activities than other states, which could affect the likelihood that a claimant receives a work search overpayment. In addition, according to DOL, some states require claimants to report their work search activities in order to continue receiving benefits, which might prevent some work search overpayments from occurring. We have also likely excluded some relevant claimant characteristics as well. For example, total income for a claimant's household and a claimant's number of dependents may affect their work search efforts. However, variables describing a claimant's household income and composition are not included in the BAM data and thus are omitted from our analysis. To the extent that these factors are correlated with the factors we included, our estimates of the relationships between work search overpayment rates and the included factors could be biased.
- *Measurement error.* Our variables may have been measured with error, which could bias our coefficient estimates. If the measurement error is random, our coefficient estimates would be biased down, but if the measurement error is systematic, then we cannot say whether our coefficient estimates would be biased down or up.

Results

Our baseline specification suggests that some state practices are associated with state work search overpayment rates estimates (see column 1 of table 7). We used the 10 percent level of significance as our threshold for statistical significance because we have a relatively small number of observations (259).

⁶The intuition that claimants are more likely to search for work if they are more likely to get caught when they do not search for work is similar to the intuition that an increased likelihood of detection reduces tax evasion and other crime, all else being equal. See, for example, Gareth D. Myles, *Public Economics*, Cambridge: Cambridge University Press, 1995, and Aaron Chalfin and Justin McCrary, "Criminal Deterrence: A Review of the Literature," *Journal of Economic Literature*, vol. 55, no. 1, 2017, 5-48.

- State work search overpayment rate estimates were higher in states with more cases with claimants who were required to search for work. A 1 percentage point increase in the fraction of cases with claimants required to search for work was associated with a 0.084 percentage point increase in the work search overpayment rate estimates on average, all else being equal.
- Work search overpayment rate estimates were lower in states with more cases for which the BAM auditors investigated one or more job contacts. A one percentage point increase in the fraction of cases for which the BAM auditors investigated contacts was associated with a 0.072 percentage point reduction in the work search overpayment rate on average, all else being equal.
- Compared to states that did not issue any formal warnings, work search overpayment rate estimates were higher in states that made low or moderate use of formal warnings but lower in states that issued formal warnings frequently. Work search overpayment rate estimates in states that were low and moderate users of formal warnings were 3.9 and 3.1 percentage points higher on average than those in states that issued no formal warnings, all else being equal. Work search overpayment rate estimates in states that were frequent users of formal warnings were 3.5 percentage points lower on average than those in states that issued no formal warnings.

**Appendix I: Econometric Analysis of Estimated
State Work Search Overpayment Rates**

Table 7: Estimated Changes in State Work Search Overpayment Rates Associated with State Practices and Claimant Characteristics, Fiscal Years 2013 to 2017

Percentage points

	Estimated change in the work search overpayment rate	
	(1)	(2)
Percentage of cases with claimants required to search for work during the key week (relative to cases with claimants who were exempt)	0.084 ^c (0.046)	0.084 ^b (0.038)
Percentage of cases with claimants who responded to the BAM audit...		
...in-person (relative to cases with claimants who did not respond to the BAM audit)	0.132 (0.087)	0.132 ^c (0.069)
...by telephone (relative to cases with claimants who did not respond to the BAM audit)	0.124 (0.083)	0.124 ^c (0.066)
... by mail, email, fax, or other method (relative to cases with claimants who did not respond to the BAM audit)	0.157 ^c (0.094)	0.157 ^b (0.073)
Percentage of cases for which BAM auditors investigated job contacts (relative to cases for which BAM auditors investigated no job contacts)	-0.072 ^b (0.032)	-0.072 ^b (0.029)
Percentage of cases with work search errors that received a formal warning...		
...0.1 to 24.9 percent (relative to states that issued no formal warnings)	0.039 ^a (0.012)	0.039 ^a (0.013)
...25 to 74.9 percent (relative to states that issued no formal warnings)	0.031 ^b (0.014)	0.031 ^a (0.011)
...75 percent or more (relative to states that issued no formal warnings)	-0.035 ^a (0.007)	-0.035 ^a (0.005)
Percentage of cases with claimants who are...		
...age 25-34 (relative to cases with claimants age 14-24)	0.048 (0.278)	0.048 (0.240)
...age 35-44 (relative to cases with claimants age 14-24)	0.197 (0.238)	0.197 (0.232)
...age 45-64 (relative to cases with claimants age 14-24)	0.249 (0.248)	0.249 (0.209)
...age 65 and over (relative to cases with claimants age 14-24)	0.132 (0.270)	0.132 (0.257)
Percentage of cases with claimants who have...		
...a high school diploma or GED (relative to cases with claimants with less than a high school diploma or GED)	0.072 (0.113)	0.072 (0.088)

**Appendix I: Econometric Analysis of Estimated
State Work Search Overpayment Rates**

	Estimated change in the work search overpayment rate	
	(1)	(2)
Percentage of cases with claimants who have...		
...some college/associates degree (relative to cases with claimants with less than a high school diploma or GED)	0.192 ^c (0.110)	0.192 ^c (0.098)
...a bachelors degree or more (relative to cases with claimants with less than a high school diploma or GED)	-0.016 (0.118)	-0.016 (0.101)
Percentage of cases with female claimants	0.013 (0.072)	0.013 (0.052)
Percentage of cases with claimants who have received unemployment insurance benefits for...		
...5 to 14.9 weeks (relative to cases with claimants who have received unemployment insurance benefits for 4.9 weeks or less at the time of the audit)	-0.018 (0.146)	-0.018 (0.128)
...15 to 26.9 weeks (relative to cases with claimants who have received unemployment insurance benefits for 4.9 weeks or less at the time of the audit)	-0.128 (0.125)	-0.128 (0.111)
...27 to 51.9 weeks (relative to cases with claimants who have received unemployment insurance benefits for 4.9 weeks or less at the time of the audit)	-0.261 (0.171)	-0.261 ^c (0.146)
...52 weeks or more (relative to cases with claimants who have received unemployment insurance benefits for 4.9 weeks or less at the time of the audit)	-0.027 (0.372)	-0.027 (0.340)
Percentage of cases with claimants whose key week amount as a percent of the normal weekly wage in their occupation was...		
...20 to 39.9 percent (relative to cases with claimants whose key week amount was less than 20 percent of the normal weekly wage in their occupation)	0.259 (0.245)	0.259 (0.183)
...40 to 59.9 percent (relative to cases with claimants whose key week amount was less than 20 percent of the normal weekly wage in their occupation)	0.214 (0.178)	0.214 (0.131)
...60 to 79.9 percent (relative to cases with claimants whose key week amount was less than 20 percent of the normal weekly wage in their occupation)	0.257 (0.188)	0.257 ^c (0.147)
...80 percent or more (relative to cases with claimants whose key week amount was less than 20 percent of the normal weekly wage in their occupation)	0.244 (0.242)	0.244 (0.199)

**Appendix I: Econometric Analysis of Estimated
State Work Search Overpayment Rates**

	Estimated change in the work search overpayment rate	
	(1)	(2)
Millions of weeks of paid claims	-0.000 (0.002)	-0.000 (0.001)
Observations	259	259
Fiscal year indicators	Yes	Yes
Fractional response logit estimator	Yes	Yes
Standard errors clustered by state	Yes	No
Robust standard errors	No	Yes

Source: GAO analysis of the Department of Labor's Benefit Accuracy Measurement data. | GAO-18-486

Notes: Average estimated marginal effects on state work search overpayment rates are derived from fractional response logit estimators with standard errors clustered by state (column 1) or robust standard errors (column 2). Work search overpayment rates and explanatory variables other than the indicators of formal warnings use are measured in decimals and range from 0 to 1. Indicators of formal warnings use are binary indicator variables.

^aStatistically significant at the 1 percent level.

^bStatistically significant at the 5 percent level.

^cStatistically significant at the 10 percent level.

Our state-level analysis also suggests that some characteristics of cases are not associated with state work search overpayment rate estimates, but others are. State work search overpayment rate estimates were not significantly associated with the distribution of cases by claimant age, gender, duration of unemployment benefits receipt, or key week amount as a percentage of the normal weekly wage in their occupation, or with the number of cases. However, state work search overpayment rate estimates were higher in states with more cases with claimants with some college or an associate's degree relative to cases with claimants without a high school degree or GED. A one percentage point increase in the estimated fraction of cases with claimants with some college or an associates degree was associated with a 0.192 percentage point increase in estimated work search overpayment rates on average, all else being equal.

To assess the sensitivity of our results, we estimated fractional response models with robust standard errors instead of clustered standard errors (see column (2) of table 7). We also estimated fractional response models that replaced the fractions of cases by claimant response method with the fraction of cases with claimants who responded to the BAM audit by all methods combined, with both types of standard errors. Finally, we estimated linear models, also with both types of standard errors. While

the direction and magnitude of the relationship between estimated work search overpayment rates and the fraction of cases with claimants required to search for work was generally similar across specifications, it was not always statistically significant. The direction, magnitude, and statistical significance of the relationship between estimated work search overpayment rates and the fraction of cases for which BAM auditors investigated job contacts was generally similar across specifications, with the exception of the linear model with clustered standard errors, where it was not statistically significant. The directions, magnitudes, and statistical significance of the relationship between estimated work search overpayment rates and estimated state formal warning use were generally similar across specifications.

Appendix II: Additional Benefit Accuracy Measurement Data Tables

This appendix contains several tables that show the underlying data used throughout this report, using the Department of Labor's Benefit Accuracy Measurement (BAM) data for fiscal years 2013 through 2017.

According to DOL, because the BAM data are based on a statistical survey, estimates produced from our analysis of the BAM data are subject to sampling and non-sampling errors. Sampling errors are errors that arise in a data collection process as a result of taking a sample from a population rather than using the whole population. Non-sampling errors are errors or biases that arise in a data collection process as a result of factors other than taking a sample, such as the timeliness of data collection, data entry errors, biased questions in fact-finding, biased decision-making, and inappropriate analysis and conclusions completed by state investigators or false or inaccurate information provided by survey respondents. We express our confidence in the precision of our results by reporting the margins of error associated with 95 percent confidence intervals. This is the interval that would contain the actual population value for 95 percent of the samples the respective agency could have drawn.

In addition, it may be misleading to compare one state's work search overpayment rates with another state's rates. According to DOL, no two states' written laws, regulations, and policies specifying eligibility conditions are identical, and differences in these conditions influence the potential for error.

The following tables and information are included in this appendix:

- **Table 8:** The estimated overpayment amounts for the Unemployment Insurance (UI) program by cause in fiscal year 2017 (also represented in fig. 2 in the letter portion).
- **Table 9:** The national work search overpayment rate estimates and dollar amounts for fiscal years 2013 through 2017 (also represented in fig. 3 in the letter portion).¹
- **Table 10:** The work search overpayment rates estimates and dollar amount of work search overpayments in each state in fiscal year 2017, excluding cases where formal warnings were given.

¹For the purpose of this report, we refer to overpayments due to failure to meet work search requirements as work search overpayments.

**Appendix II: Additional Benefit Accuracy
Measurement Data Tables**

- **Table 11:** The percentage of cases in which claimants were required to search for work and the percentage of those cases in which job contacts were investigated in each state in fiscal year 2017.
- **Table 12:** For states that issued formal warnings in 2017, the UI overpayment rate estimates excluding and including cases in which formal warnings were issued, and the difference in the dollar amount of overpayments if formal warnings were not used.

Table 8: Estimated Overpayment Rates and Amounts by Cause, Fiscal Year 2017

Cause	Estimated rate (percentage of benefits paid)	Margin of error associated with 95 percent confidence interval	Estimated amount (dollars in millions)	Margin of error associated with 95 percent confidence interval (dollars in millions)
Benefit year earnings	3.1	0.4	958.7	110.2
Separation issues	2.1	0.3	639.2	103.3
Work search issues	4.5	0.4	1,363.9	115.2
All other issues	2.3	0.4	689.9	96.7

Source: GAO analysis of Department of Labor's Benefit Accuracy Measurement data. | GAO-18-486

Note: This excludes formal warning cases, which are cases in which claimants who failed to search for work in one week were provided benefits.

Table 9: National Work Search Overpayment Rate Estimates and Amounts, Fiscal Years 2013 through 2017

Fiscal year	Estimated rate (percentage of benefits paid)	Margin of error associated with 95 percent confidence interval	Estimated amount (dollars in millions)	Margin of error associated with 95 percent confidence interval (dollars in millions)
2013	2.4	0.3	986.4	113.5
2014	4.0	0.4	1,460.1	127.8
2015	3.0	0.3	966.0	92.4
2016	4.2	0.4	1,303.0	116.5
2017	4.5	0.4	1,363.9	115.2

Source: GAO analysis of Department of Labor's Benefit Accuracy Measurement data. | GAO-18-486

Note: This excludes formal warning cases, which are cases in which claimants who failed to search for work in one week were provided benefits.

**Appendix II: Additional Benefit Accuracy
Measurement Data Tables**

Table 10: State Work Search Overpayment Rate Estimates and Amounts, Excluding Formal Warnings, Fiscal Year 2017

State	Work search overpayment rate estimates (percentage of benefits paid)	Margin of error associated with 95 percent confidence interval (percentage of benefits paid)	Amount of work search overpayment estimates (dollars in millions)	Margin of error associated with 95 percent confidence interval (dollars in millions)
Alaska	3.2	1.5	4.0	2.0
Alabama	2.8	1.6	5.1	3.0
Arkansas	0	0.8	0	1.1
Arizona	1.2	1.0	3.0	2.5
California	0.2	0.4	10.4	20.4
Colorado	6.3	2.3	30.2	11.2
Connecticut	14.8	3.7	94.3	24.6
District of Columbia	1.9	1.5	2.4	2.0
Delaware	0.1	0.3	0.1	0.2
Florida	0.9	0.9	3.3	3.3
Georgia	1.5	1.2	5.2	3.9
Hawaii	0.3	0.6	0.5	1.1
Iowa	0.8	0.8	3.5	3.6
Idaho	4.3	2.2	4.6	2.4
Illinois	4.0	1.8	71.5	31.9
Indiana	0	0.8	0	2.2
Kansas	17.5	3.5	33.2	7.1
Kentucky	2.0	1.3	5.7	3.6
Louisiana	0	0.8	0	1.6
Massachusetts	13.1	3.3	190.3	49.7
Maryland	8.5	2.6	44.8	14.0
Maine	6.6	2.4	6.3	2.3
Michigan	41.2	4.9	330.6	49.1
Minnesota	0.2	0.4	1.9	3.0
Missouri	0.2	0.4	0.5	1.1
Mississippi	2.7	1.4	2.3	1.2
Montana	4.8	2.5	5.2	2.8
North Carolina	15.1	3.3	32.3	7.4
North Dakota	7.3	2.8	10.5	4.1
Nebraska	5.8	2.7	4.2	2.0
New Hampshire	4.8	2.2	2.4	1.2
New Jersey	1.9	1.3	35.0	24.1
New Mexico	0.5	0.9	0.8	1.6

**Appendix II: Additional Benefit Accuracy
Measurement Data Tables**

Nevada	4.1	1.8	11.9	5.1
New York	4.6	2.0	104.3	47.0
Ohio	7.6	2.8	69.6	26.0
Oklahoma	0.6	0.9	2.0	2.8
Oregon	7.0	2.5	33.5	12.4
Pennsylvania	0	0.8	0	16.0
Puerto Rico	0	0.8	0	1.1
Rhode Island	6.7	2.4	10.0	3.6
South Carolina	0	0.7	0	1.3
South Dakota	2.7	1.8	0.8	0.5
Tennessee	4.8	2.1	8.7	3.8
Texas	1.9	1.4	52.1	37.4
Utah	2.5	1.6	4.1	2.6
Virginia	2.3	1.4	8.8	5.2
Vermont	2.9	1.9	2.0	1.3
Washington	5.5	2.2	51.8	20.9
Wisconsin	12.7	3.2	59.5	16.0
West Virginia	0	0.7	0	1.4
Wyoming	0.3	0.5	0.3	0.4
United States	4.5	0.4	1363.9	115.2

Source: GAO analysis of Department of Labor's Benefit Accuracy Measurement data. | GAO-18-486

Note: This excludes formal warning cases, which are cases in which claimants who failed to search for work in one week were provided benefits.

**Appendix II: Additional Benefit Accuracy
Measurement Data Tables**

Table 11: Percentage of Cases with Claimants Required to Search for Work and Percentage for Which Job Contacts Were Investigated by State, Fiscal Year 2017

State	Cases with claimants required to search for work (percentage of cases)	Cases for which job contacts were investigated (percentage of cases with claimants required to search for work)	State	Cases with claimants required to search for work (percentage of cases)	Cases for which job contacts were investigated (percentage of cases with claimants required to search for work)
Alaska	80.1	96.3	Montana	47.6	98.2
Alabama	92.1	89.1	North Carolina	98.5	76.7
Arkansas	88.4	22.4	North Dakota	38.2	91.3
Arizona	99.0	99.6	Nebraska	57.6	99.5
California	81.0	53.6	New Hampshire	91.9	97.3
Colorado	79.9	76.4	New Jersey	78.7	31.4
Connecticut	91.3	54.3	New Mexico	91.1	99.8
District of Columbia	100.0	98.9	Nevada	88.4	48.9
Delaware	71.1	79.3	New York	75.2	48.8
Florida	96.6	99.1	Ohio	81.5	99.2
Georgia	85.5	90.5	Oklahoma	92.1	81.3
Hawaii	54.4	80.8	Oregon	89.5	95.8
Iowa	50.8	79.1	Pennsylvania	70.9	36.2
Idaho	71.6	99.4	Puerto Rico	82.9	91.1
Illinois	68.6	91.5	Rhode Island	77.9	88.6
Indiana	81.2	83.4	South Carolina	96.4	61.8
Kansas	84.2	76.3	South Dakota	56.3	54.0
Kentucky	80.0	78.3	Tennessee	76.3	95.8
Louisiana	89.4	97.3	Texas	93.1	80.3
Massachusetts	84.8	72.6	Utah	70.8	100.0
Maryland	85.6	88.0	Virginia	93.8	98.0
Maine	92.3	87.0	Vermont	67.3	92.9
Michigan	93.9	62.9	Washington	83.8	76.9
Minnesota	70.8	90.2	Wisconsin	48.9	92.6
Missouri	75.8	63.8	West Virginia	66.5	92.1
Mississippi	94.4	93.1	Wyoming	80.6	95.9
			United States	80.3	80.3

Source: GAO analysis of Department of Labor's Benefit Accuracy Measurement data. | GAO-18-486

**Appendix II: Additional Benefit Accuracy
Measurement Data Tables**

Table 12: Selected States' Overpayment Rate and Potential Overpayment Rate Estimates Factoring in Formal Warning Cases, Fiscal Year 2017

State	Number of formal warnings	Overpayment rate estimate, excluding formal warnings	Margin of error associated with 95 percent confidence interval	Overpayment rate estimate, including formal warnings	Margin of error associated with 95 percent confidence interval	Difference in estimated overpayment amount including and excluding formal warnings (\$ in millions)	Margin of error associated with 95 percent confidence interval (\$ in millions)
Arkansas	25	7.6	2.4	11.2	3.0	4.9	2.6
Arizona	1	9.3	2.6	9.6	2.6	0.7	1.4
Colorado	198	15.4	3.4	52.1	4.7	176.1	26.2
Connecticut	28	17.1	3.8	23.4	4.4	39.8	16.8
District of Columbia	65	11.4	3.2	26.7	4.7	19.6	5.3
Delaware	19	4.6	2.2	10.1	3.3	4.0	2.0
Iowa	73	8.0	2.5	19.0	3.6	47.5	12.7
Indiana	185	9.8	2.8	39.1	4.9	84.2	14.6
Louisiana	3	11.9	3.1	12.6	3.2	1.4	1.6
Maryland	2	16.6	3.4	16.7	3.4	1.0	1.9
Maine	22	10.8	2.9	15.4	3.5	4.4	2.1
Minnesota	12	8.4	2.5	10.8	3.0	19.2	14.7
Missouri	133	5.5	2.3	31.5	4.6	71.6	13.8
Nebraska	39	10.4	3.4	20.7	4.6	7.5	2.6
New Jersey	102	9.3	2.6	29.6	4.5	379.7	82.4
Nevada	137	13.0	3.1	37.7	4.5	71.7	13.0
New York	20	14.1	3.3	17.7	3.6	81.6	40.7
Pennsylvania	203	10.4	2.9	49.5	5.0	823.3	124.4
Vermont	61	7.2	2.8	22.1	4.7	10.2	3.0
United States	1328	12.0	0.7	18.0	0.8	1,848.6	161.0

Source: GAO analysis of Department of Labor's Benefit Accuracy Measurement data. | GAO-18-486

Note: The estimated rates represent the percentage of Unemployment Insurance benefits paid.

Appendix III: Summary of Six States' Work Search Requirements for Unemployment Insurance Claimants

Work search requirements for Unemployment Insurance claimants vary by state. According to our review of program documents in our six selected states, the minimum number of work search activities required per week ranged from not specified to four. Three of the states limited the work search activities to applying for jobs or contacting employers in other ways and the three other states had broader definitions of what would qualify as a work search activity. See table 13 below for a summary of the work search requirements, confirmed by state officials, for the six states included in our review.

Appendix III: Summary of Six States' Work Search Requirements for Unemployment Insurance Claimants

Table 13: Summary of Selected States' Work Search Requirements for UI Claimants

State	Minimum number of work search activities required per week	Types of activities that qualify as work search activities	Claimant reporting of work search activities
Indiana	3	Work search activities can include, but are not limited to: visiting a job center, attending a professional networking group or a job fair, creating a LinkedIn account, applying for a job.	Not required to report specific work search activities when filing claims, but must keep a written record of work search activities and provide it to the state Unemployment Insurance (UI) agency upon request.
Mississippi	3	Contact three employers each week to apply for work. An application must be completed with at least one of the three employer contacts. Employer contacts can be made by phone, internet, in-person, or by sending applications/resumes.	Must report their work search activities online as part of filing weekly claims.
Nevada	Not specified	Work search activities can include, but are not limited to: submitting job applications, participating in job search activities at a job center, using online networking websites and online job boards.	Encouraged to report work search activities online as part of filing weekly claims. Must keep a written record of work search activities and provide it to the state UI agency upon request.
New Jersey	3	Contact three different employers for each week. Employer contacts can be made by phone, internet, in-person, or by sending applications/resumes.	Not required to report specific work search activities when filing claims. Advised to keep a record of their work search activities that would be available upon request.
Pennsylvania	3	Submit two job applications and complete one work search activity. Work search activities can include, but are not limited to attending a job fair, searching for jobs in the state's online job bank, and posting a resume in the job bank.	Not required to report specific work search activities when filing claims, but must keep a written record of work search activities and provide it to the state UI agency upon request.
Utah	4	Contact employers that the claimant has not contacted before or contact a previously contacted employer about a newly listed job opening. Employer contacts can be made by phone, internet, in-person, or by sending applications/resumes.	Must keep a written record of work search activities and report the activities online as part of filing weekly claims.

Source: GAO review of information provided by state officials and confirmed by state officials. | GAO-18-486

Note: The information provided in this table is not based on a review of state laws and regulations.

Appendix IV: Comments from the Department of Labor

U.S. Department of Labor

Employment and Training Administration
200 Constitution Avenue, N.W.
Washington, D.C. 20210



JUL 24 2018

Cindy S. Brown-Barnes
Director
Education, Workforce, and Income Security Issues
U.S. Government Accountability Office
441 G. Street, N.W.
Washington, D.C. 20548

Dear Ms. Brown-Barnes:

Thank you for the opportunity to review and comment on the Government Accountability Office's (GAO) draft report, "Unemployment Insurance: Actions Needed to Ensure Consistent Reporting of Overpayments and Claimants' Compliance with Work Search Requirements."

The Department appreciates GAO's efforts to describe the state of play regarding Unemployment Insurance (UI) work search requirements and formal warning policies. While the Federal-State UI program has made significant progress over the past six years implementing its strategic plan to reduce improper payments, certain essential program features continue to contribute to the UI program's improper payment rate.

As the Department noted in its response to GAO's interim report, "Unemployment Insurance: State Use of Warnings Related to Work Search Requirements Affects DOL's Improper Payment Estimates (GAO-18-133R)," failure to meet work search requirements is currently the largest root cause of UI overpayments. UI claimants are required to certify that they have met a state's work search requirements and document their work search in accordance with the state's law. Federal law requires that when an eligibility issue is detected, the claimant must receive notice and an opportunity to provide information before the state may stop paying benefits. Because there are fundamental due process requirements that prevent nonpayment of benefits, work search errors generally cannot be prevented before the payment must be made to the claimant.

Additionally, the definition of improper payments established by the Improper Payments Elimination and Recovery Act (IPERA) requires that the Department report those overpayments that result from statutory requirements as part of its overall improper payment rate. As a result, the UI program faces a difficult challenge in achieving a reduction in reported improper payments under the requirements of IPERA.

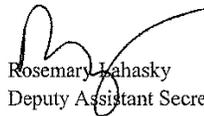
The Department is committed to supporting states' efforts to reduce overpayments in the UI program. We currently work with states to provide robust monitoring and technical assistance.

The Department has put forth legislative proposals to help states in addressing their improper payment rates, such as allowing states to retain a small portion of overpayment recoveries to use for additional work to address improper payments. The Department has also established the UI Integrity Center, a state-driven source of innovative program integrity strategies aimed at addressing UI improper payments and reducing fraud.

The Department agrees with GAO's recommendations. The Employment and Training Administration's Office of Unemployment Insurance will provide states with information about its determination that the use of state formal warning policies is no longer permissible under federal law, will monitor states' efforts to discontinue the use of formal warning policies, will clarify information on work search verification requirements in its revised Benefit Accuracy Measurement procedures, and will monitor states' compliance with clarified work search verification requirements.

Thank you for your review and recommendations.

Sincerely,



Rosemary Jahasky
Deputy Assistant Secretary

Appendix V: GAO Contact and Staff Acknowledgments

GAO Contact

Cindy Brown Barnes 202-512-7215 or brownbarnesc@gao.gov.

Staff Acknowledgments

In addition to the contact names above, Danielle Giese (Assistant Director), Cathy Roark (Analyst in Charge), Carl Barden, Rachel Beers, Deborah Bland, Beryl Davis, Holly Dye, Alex Galuten, Dana Hopings, Joel Marus, Phillip McIntyre, Sheila R. McCoy, Jean McSween, Courtney LaFountain, Stacy Spence, Almeta Spencer, Matt Valenta made significant contributions to this report.

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