A Committee of the
Council of the Inspectors General
on Integrity and Efficiency

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MEMORANDUM

February 16, 2022

MITRE Report:
Best Practices and Lessons Learned from the Administration of
Pandemic-Related Unemployment Benefits Programs

The Pandemic Response Accountability Committee (PRAC) is charged with conducting oversight of pandemic-related spending to prevent and detect fraud, waste, abuse, and mismanagement. In May 2021, we engaged MITRE, a not-for-profit federally funded research and development center, to conduct an independent study of lessons learned from the administration of pandemic-related emergency funding for unemployment insurance (UI) benefit programs in a sample of states. An estimated $872 billion has been allocated to UI benefit programs to address the economic downturn created by the COVID-19 pandemic. The objective of this study was to increase understanding of how states implemented pandemic UI benefit programs and how their different implementation approaches may have reduced the fraud risk, including identity theft-related fraud. MITRE, in coordination with the U.S. Department of Labor (DOL), contacted all 54 state and territory workforce agencies (SWAs) and 12 responded. This report summarizes the responses of those 12 SWAs except where otherwise indicated.

The use of the term "best practices" recognizes those instances where responding SWAs' actions may have reduced fraud risk and these practices are spotlighted so they can be replicated and expanded elsewhere; use of the term is not intended to suggest that the DOL or the SWAs have or have not done enough to combat UI fraud and improper payments. The DOL Office of Inspector General (OIG) has raised significant concerns regarding the DOL and SWAs' ability to deploy UI benefits expeditiously and efficiently while ensuring integrity and adequate oversight, particularly during the pandemic and in response to national emergencies and disasters. As the DOL OIG reported, improper payment rates in the UI program have historically been among the highest in the federal government. Moreover, the unprecedented infusion of federal pandemic UI funds provided individuals and organized criminal groups a high-value target to exploit. Despite DOL's efforts in issuing new guidance, distributing additional antifraud funding, and providing technical assistance, improper payments stemming from fraudulent activity continue to pose a significant threat to the integrity of the nation's UI program. The DOL OIG has a large body of audit and investigative work on this topic, with more oversight projects on-going. This work is posted on the [DOL OIG pandemic response website](#). Moreover, MITRE's independent observations and suggestions should be read in context with the PRAC's December 2021 report, [Key Insights: State Pandemic Unemployment Insurance Programs](#), which summarized the findings of state auditors overseeing UI benefits.

BEST PRACTICES AND LESSONS LEARNED FROM THE ADMINISTRATION OF PANDEMIC RELATED UNEMPLOYMENT BENEFITS PROGRAMS

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Record of Changes

Change Number	Date	Reference	A = Add M = Modify D = Delete	Change Description
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EXECUTIVE SUMMARY

The Pandemic Response Accountability Committee, a committee within the Council of the Inspectors General on Integrity and Efficiency tasked by Congress to promote transparency and conduct oversight of the pandemic response related to the Coronavirus Aid, Relief, and Economic Security Act, the Continued Assistance for Unemployed Workers Act, and the American Rescue Plan Act, seeks to identify best practices and lessons learned for minimizing fraud risk from the implementation of pandemic unemployment insurance (UI) benefits programs.

Over the course of the pandemic, state workforce agencies (SWAs) have worked to minimize UI fraud while providing timely benefits to claimants, employing a range of fraud prevention and deterrence methods. Produced by MITRE, a not-for-profit organization and operator of federally funded research and development centers authorized by Federal Acquisition Regulation 35.017, this report showcases interviewed SWAs' UI fraud prevention practices and lessons learned and offers key considerations for potentially overcoming some of the challenges to UI program administration that emerged during the pandemic. It draws on federal and state UI program implementation documentation and reporting as well as interviews with federal and state UI stakeholders. This work is intended to inform stakeholders in Congress, the executive branch, state and local governments, and the public about the status quo and potential of state UI fraud prevention strategies and tactics.

MITRE corresponded with all 54 states and territories to elicit their responses. A limited number of states responded, and this report summarizes their narratives. MITRE recognizes the Department of Labor (DOL) Office of Inspector General (OIG) has repeatedly reported significant concerns with DOL and SWAs' ability to deploy UI program benefits expeditiously and efficiently while ensuring integrity and adequate oversight, particularly during the pandemic and in response to national emergencies and disasters. MITRE's observations and key considerations are based on the analysis of the SWA responses.

Observations – State Best Practices for Preventing UI Fraud During the Pandemic

Drawing on a fraud prevention framework produced by the Organisation for Economic Co-operation and Development, MITRE organized the observations gathered from federal and state UI documents and interviews into the following categories:

- Standard Operating Procedures
- Eligibility Phase Controls
- Public Communications
- Risk Management

Standard Operating Procedures

Interstate and interagency coordination and exchange of information about emerging UI fraud schemes and technical practices to prevent, detect, and deter fraudsters took on heightened importance as fraud tactics evolved over the course of the pandemic. The National Association of State Workforce Agencies UI Integrity Center provided open lines of communication and data resources for states.

Coordination between SWAs, federal and state law enforcement, OIG investigators, and states' attorneys general was critical for investigating and prosecuting fraud and recovering fraudulent payments deposited with financial institutions.

SWAs utilized federal and state emergency grant funds to hire and train new staff. Furthermore, some SWAs invested emergency funds into building out their technology and data analytics expertise for fraud prevention and fraudulent payment recovery.

Eligibility Phase Controls

SWAs implemented a wide array of eligibility phase controls to identify and freeze fraudulent UI claims.

Upfront identity verification tools were critical to stopping fraudsters in their tracks. While identity verification tools are not foolproof, SWAs that implemented them claimed to have seen a reduction in UI fraud associated with identity theft. Additionally, multifactor authentication and bot prevention and detection technologies augmented identity verification tools in freezing fraudulent claims.

SWAs pursued different approaches to conditionally paying claimants with unverified identities. Each approach is a technique to mitigate the losses from unverified claims continuing to be paid.

Some SWAs iteratively updated the fraud indicators and filters used in their fraud prevention data analytics and cross-matching. Fraud indicators look for commonalities among data points across multiple claims and multiple data environments.

Public Communications

Much of the public communication conducted during the pandemic by the interviewed SWAs was less focused on deterring fraud through forceful messaging than it was on educating the public about the risks of fraud and identity theft and instructing the public on how to effectively communicate with the SWA.

Some SWAs increased their phone line capacity to accommodate higher call volumes, stood up contact centers, and made their websites easier for UI claimants to navigate in order to find key information.

Risk Management

SWAs did not specifically mention use of risk management frameworks aside from risk-based scoring matrices used to quantify the relative fraud risk associated with a particular claim. However, they did note cultural shifts and tactical innovations that could help them identify and reduce fraud risk.

Tactical innovations for risk management include novel vendor engagement and embrace of artificial intelligence and machine learning (AI/ML) for fraud discovery. One SWA director was particularly adamant about the use of AI/ML for fraud discovery, arguing that effective use of automation is paramount for 21st century UI fraud prevention.

Considerations for Further Exploration

Synthesized from review of the observations above, the following key considerations are opportunities to couple with existing Department of Labor Employment and Training

Administration or Office of Unemployment Insurance Modernization strategic initiatives to deliver transformational impact:

- Standardize policies and practices for administering payments to claimants self-certifying unemployment and claimants with unverified identities.

- Establish a recommended baseline for risk tolerance for UI fraud associated with self-certification and unverified identities, both under normal circumstances and during severe emergencies.

- Develop and standardize conditional payment options to mitigate fraud losses when administering emergency UI programs where claimant information and identity verification is difficult.

- Develop and conduct regular UI demand surge stress tests to prepare for future emergencies.

- Require timely financial institution compliance with fraudulent payment recovery.

- Support SWAs in determining eligibility and making informed eligibility decisions through requirements that collect additional detail, such as enhanced wage records.

- Develop UI fraud prevention (pre-award) performance measures.

- Explore requirements for consistent data usage and claim adjudication risk assessment protocols to prevent fraud.

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1. BACKGROUND OF UNEMPLOYMENT INSURANCE DURING THE PANDEMIC

The COVID-19 pandemic has caused an unprecedented negative impact on the well-being of the American people. Aside from the catastrophic health impacts and the devastating loss of life in the United States, the economic effects of the pandemic have been among the most challenging for the U.S. government and citizens. State lockdown mandates and measures to enforce social distancing have massively disrupted normal business operations, resulting in an unprecedented spike in unemployment across the country as employers have permanently or temporarily reduced their labor force. Newly unemployed or furloughed workers have suffered the brunt of this painful adjustment, and the surging ranks of unemployed Americans have translated into surging demand for unemployment insurance (UI). U.S. Department of Labor (DOL) data reflect the immense scale of this demand (see Figure 1).

Jointly administered by the DOL and state workforce agencies (SWAs), "unemployment insurance programs provide unemployment [cash] benefits to eligible workers who become unemployed through no fault of their own and meet certain other eligibility requirements."[1] SWAs administer their own UI programs under state law while adhering to standard federal guidelines, and they "establish requirements for eligibility, benefit amounts, and the length of time that benefits can be paid."[2] Meanwhile, the DOL Employment and Training Administration (ETA) provides federal UI program direction and oversight.[3]

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[1] U.S. Department of Labor, "How Do I File for Unemployment Insurance?," Accessed 11 November 2021, https://www.dol.gov/general/topic/unemployment-insurance.

[2] U.S. Department of Labor Office of Inspector General, "DOL-OIG Oversight of the Unemployment Insurance Program," 6 October 2021, https://www.oig.dol.gov/doloiguioversightwork.htm.
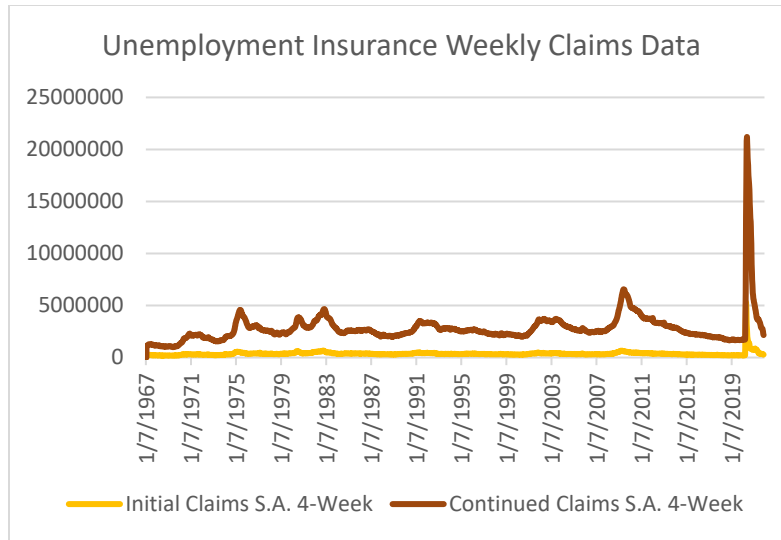
[3] Ibid.

Figure 1. DOL ETA UI Claims Data[4]

The scale of the pandemic UI demand surge is captured in UI weekly claims data recorded by ETA (see Figure 1). Between March 14, 2020, and April 18, 2020, the seasonally adjusted (S.A.)[5] four-week average of initial unemployment claims filed across the country skyrocketed from 225,500 to a peak of 5,301,250. Between March 14, 2020, and May 16, 2020, the seasonally adjusted four-week average of continued unemployment claims filed across the country skyrocketed from 1,730,750 to a peak of 21,199,000. This spike dwarfs all other surges in UI demand since 1967, the earliest year for which ETA provides UI weekly claims data; as shown in Figure 1, the UI demand surge during the Great Recession between 2007 and 2009 pales in comparison to the COVID-19 pandemic UI demand surge in 2020.[6]

Even before the onset of the COVID-19 pandemic and this unprecedented spike in UI demand, the efficiency and integrity of UI programs nationwide were of serious concern. The DOL Office of Inspector General (DOL-OIG) notes that "historically the UI program experienced some of the highest improper payment rates among federal government benefits programs. The reported improper payment estimate for the regular UI program has been above 10 percent for 14 of the last 17 years."[7] Among the areas of concern related to UI raised by DOL-OIG at the outset of the

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[4] U.S. Department of Labor Employment & Training Administration, "Unemployment Insurance Weekly Claims Data," 10 November 2021, https://oui.doleta.gov/unemploy/claims.asp.

[5] Seasonal adjustment is a statistical technique that attempts to measure and remove the influences of predictable seasonal patterns to reveal how employment and unemployment change from month to month.

[6] U.S. Department of Labor Employment & Training Administration, "Unemployment Insurance Weekly Claims Data," 10 November 2021, https://oui.doleta.gov/unemploy/claims.asp.

[7] U.S. Department of Labor Office of Inspector General, "DOL-OIG Oversight of the Unemployment Insurance Program," 6 October 2021, https://www.oig.dol.gov/doloiguioversightwork.htm.

pandemic were "state preparedness, initial eligibility determinations, benefit amount, return to work, improper payment detection and recovery, and program monitoring."[8]

Improper payment detection and recovery stems in part from the federated nature of UI programs nationwide, which enables fraudsters, both individuals and organized criminal entities, to exploit enforcement gaps within and across states. The rate and magnitude of the increase in UI claims filed across the country during the pandemic and the expansion of both UI eligibility and benefits that were legislated through the Coronavirus Aid, Relief, and Economic Security (CARES) Act, the Continued Assistance for Unemployed Workers (Continued Assistance) Act, and the American Rescue Plan (ARP) Act placed unprecedented administrative strain on SWAs and created openings for heightened fraudulent activity. Considering this, DOL-OIG estimates that "UI program improper payments, including fraudulent payments, will be higher than 10 percent."[9] Considering the hundreds of billions of dollars of federal funding allocated to the UI program, this could translate into tens of billions of dollars of improper, including fraudulent, payments.

More specifically, the CARES Act established three new UI programs — Pandemic Unemployment Assistance (PUA), Pandemic Emergency Unemployment Compensation (PEUC), and Federal Pandemic Unemployment Compensation (FPUC) — whose scale and implementation structures were exploited by fraudsters in unprecedented ways. PUA "extended UI benefits to individuals who were not traditionally eligible for UI benefits until December 31, 2020," including "self-employed workers, independent contractors, those with limited work history, and others."[10] PEUC "provided up to an additional 13 weeks of unemployment compensation to individuals who had exhausted their regular unemployment benefits until December 31, 2020."[11] Lastly, FPUC "provided a supplemental payment of $600 per week to individuals receiving traditional and non-traditional UI benefits until July 31, 2020."[12] Despite the intention of these congressional efforts to strengthen the social safety net through wider UI coverage and more generous benefits, the massive infusion of funds into the UI program and corresponding ambiguity about the implementation of the new CARES Act programs made the UI programs extremely lucrative targets for fraudsters.

DOL-OIG has documented the primary sources of improper UI payments, including fraud, in a series of audit reports since April 2020, identifying the following high-risk areas for UI fraud: "individuals with social security numbers filed in multiple states," "individuals with social security numbers of deceased persons and federal inmates," and "individuals with social security

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[8] U.S. Department of Labor Office of Inspector General, *Pandemic Response Oversight Plan,* 27 April 2021, https://www.oig.dol.gov/public/oaprojects/DOL_OIG_Updated_Pandemic_Response_Oversight_Plan.pdf.

[9] U.S. Department of Labor Office of Inspector General, "DOL-OIG Oversight of the Unemployment Insurance Program," 6 October 2021, https://www.oig.dol.gov/doloiguioversightwork.htm.

[10] U.S. Department of Labor Office of Inspector General, *COVID-19: States Struggled to Implement CARES Act Unemployment Insurance Programs,* 28 May 2021, https://www.oig.dol.gov/public/reports/oa/2021/19-21-004-03-315.pdf.

[11] Ibid.

[12] Ibid.

numbers used to file for UI claims with suspicious email accounts."[13] DOL-OIG also found that "state reliance on self-certifications alone to ensure eligibility for the PUA program" made state UI programs particularly susceptible to fraud.[14]

Delivering unemployment benefits to claimants in a timely manner without compromising payment integrity is critical. Throughout the pandemic, SWAs have had to prioritize getting benefits to claimants while minimizing fraud. To accomplish this, they have employed a collection of techniques and fraud prevention and deterrence methods, including through collaboration with external partners and organizations and cultivation of new relationships with public and private entities, to meet their obligations to safeguard UI trust fund dollars while mitigating the disastrous economic impact of the pandemic for legitimate claimants.

2. PURPOSE

The purpose of this report is to identify best practices and lessons learned for minimizing fraud risk during the implementation of pandemic UI benefits programs. Because of the scope and scale of the estimated UI fraud during the pandemic, the Pandemic Response Accountability Committee (PRAC), a committee within the Council of the Inspectors General on Integrity and Efficiency tasked by Congress to promote transparency and conduct oversight of the pandemic response related to the CARES Act, the Continued Assistance Act, and the ARP Act, contracted with The MITRE Corporation (MITRE) to conduct this work. As a federally funded research and development center operator authorized by Federal Acquisition Regulation 35.017, MITRE provides unbiased and conflict-free advice, guidance, and technical subject matter expertise to government sponsors. To develop this report, MITRE's analysis included evaluation of federal and state approaches, policies, technology, and processes for implementing pandemic UI benefits programs. The analysis was conducted through review of federal and state documentation and reporting on UI program implementation as well as interviews with federal and state UI stakeholders.

3. SCOPE

MITRE was tasked to provide technical expertise, assessment, and guidance to support the PRAC's strategic goal of improving the transparency of pandemic-related funding, focusing in this report on UI fraud prevention. This report includes:

- A description of states' approaches to implementing pandemic unemployment programs and their efforts to prevent UI fraud
- Key considerations related to proposed alternatives for program implementation to minimize fraud risk

With this analysis, the PRAC can summarize lessons learned from implementation of pandemic UI programs to date and share best state practices for UI fraud prevention. This work is intended

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[13] U.S. Department of Labor Office of Inspector General, *Pandemic Response Oversight Plan,* 27 April 2021, https://www.oig.dol.gov/public/oaprojects/DOL_OIG_Updated_Pandemic_Response_Oversight_Plan.pdf.

[14] Ibid.

to inform stakeholders in Congress, the executive branch, state and local governments, and the public about the status quo and potential of state UI fraud prevention strategies and tactics.

4. OBSERVATIONS – STATE BEST PRACTICES FOR PREVENTING UI FRAUD DURING THE PANDEMIC

MITRE engaged with 12 state UI agencies[15] to determine how they successfully addressed the unprecedented challenges of UI program administration during the COVID-19 pandemic. Furthermore, MITRE sought information about the vulnerabilities and gaps exposed during the pandemic that the SWAs hope to remedy moving forward. MITRE synthesized the observations below from interviews, responses to MITRE's request for information, and reports from 12 SWAs. The Appendix A environmental scan references and source documentation list the specific SWAs engaged for this research.

5. FOCUS AREAS FOR FRAUD PREVENTION AND DETERRENCE

The scope of this report is to showcase successful practices and lessons learned by SWAs to prevent fraud — the intentional deception to obtain benefits. During the pandemic, most of the misappropriated distribution of claimant benefits was performed by external entities. This type of fraud differs from internal fraud committed by staff. The report also does not include unintentional errors by claimants in applying for, or SWAs in processing, claims for UI benefits. Furthermore, this report does not address waste — the thoughtless or careless expenditure, mismanagement, or abuse of resources.[16]

MITRE leveraged global industry best practices on fraud detection, including an international report – *Countering Fraud in Social Benefit Programmes: Taking Stock of Current Measures and Future Directions*[17] – produced by the Organisation for Economic Co-operation and Development (OECD). The OECD established guidance on steps to prevent and deter external fraud based on lessons learned from the administration of social benefits programs across numerous nation states.

The observations from interviews with SWA stakeholders are categorized and grouped below within the fraud prevention key focus areas laid out in the OECD report.

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[15] This report articulates the summarized narratives expressed by the SWAs that participated in this project. MITRE corresponded with all 54 states and territories to elicit their responses. A limited number of states responded, and this report summarizes their narratives. Reference to SWA activities does not necessarily mean all states performed the activities, but rather a number of states did. MITRE recognizes DOL-OIG has repeatedly reported significant concerns with DOL and SWAs' ability to deploy program benefits expeditiously and efficiently while ensuring integrity and adequate oversight, particularly during the pandemic. MITRE's observations and key considerations are based on analysis of the SWA responses.

[16] Information regarding payment accuracy and improper payments as well as the effective stewardship of taxpayer funds is a critical responsibility of the Federal Government. Payment accuracy focuses on the prevention and recovery of improper payments while ensuring the right individuals and communities benefit from federal funds; https://www.paymentaccuracy.gov/.

[17] OECD, *Countering Fraud in Social Benefit Programmes: Taking Stock of Current Measures and Future Directions*, OECD Publishing, Paris, 2020, https://doi.org/10.1787/71df2657-en.

<p align="center">**Table 1. Fraud Prevention Key Focus Areas[18]**</p>

Key Fraud Prevention Focus Area	Description and Application
Standard operating procedures – strengthening strategies, goals, and objectives for combating fraud	This includes public organizations incorporating fraud prevention into their strategies, objectives, and procedures, and making sure that they strike the right balance between prevention, detection, and prosecution measures. Fraud prevention techniques are essentially integrated into standard operating procedures.
Eligibility phase controls – targeting prevention measures at the registration phase	To minimize the chance of fraudulent tactics succeeding at this high-risk phase, governments must ensure that they put in place adequate policies, controls, and measures to verify identities and data submitted during the registration process, in particular during the registration phase of unemployment benefits administration.
Public communication – tailoring communication campaigns and messaging to improve fraud deterrence	By integrating behavioral perspectives into their prevention approaches, public organizations can develop nuanced communication campaigns that include a range of messages to deter fraud, for example by including soft messages and reminders and outlining the penalties for committing fraud.
Risk management – focusing on the highest risks	Risk management and assessments can contribute to savings and promote efficiency by targeting the application of preventive controls and identifying areas that are most susceptible to false claimants and fake registrations; includes risk models and scoring to apply risk mitigation strategies.

6. OBSERVATIONS BY FOCUS AREA

The OECD recommends a holistic approach to reduce and mitigate external fraud by examining benefits program strategies within the key focus areas in Table 1. MITRE conducted interviews with SWAs to glean insights on how states addressed fraud within these key focus areas. The observations from the SWA fraud prevention narratives describe successful efforts to thwart fraud as well as opportunities to enhance existing UI resources, processes, and technologies.

6.1.1. Standard operating procedures

MITRE found that interstate and intrastate coordination related to UI programs administration matured over the course of the pandemic. SWAs from neighboring states or within a particular region established working groups with regular meetings to exchange information about the fraudster tactics and techniques they were identifying. The National Association of State Workforce Agencies (NASWA) UI Integrity Center played a critical role in both connecting and maintaining open lines of communication for states, and the number of SWAs regularly interacting with NASWA and utilizing its data resources for UI claim cross-matching increased considerably over the course of the pandemic.[19] Cross-matching was used to identify fraudulent

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[18] Ibid.

[19] Employment and Training Administration, *Response to the Office of Inspector General Alert Memorandum: The Employment and Training Administration needs to Issue Guidance to Ensure State Workforce Agencies Provide*

UI claimants or claims leveraging incarceration databases, deceased persons databases, motor vehicle registration databases, and multi-state cross-match databases.

Within states, coordination between SWAs, federal and state law enforcement and IG investigators, and states' attorneys general was critical for investigating and prosecuting fraud and recovering fraudulent payments from financial institutions. Working with the state attorney general has been critical for some SWAs in requiring financial institutions to return improper UI payments to the UI trust fund.

SWAs also utilized federal and state emergency grant funds to hire and train new staff, in multiple cases hiring hundreds of full-time and temporary employees to fill investigatory and claims processing roles. Furthermore, much of this hiring, training, and claims processing was done virtually as SWAs closed their in-person offices to comply with social distancing guidelines.

For claims processing roles, SWAs transitioned non-UI staff to process claims and experimented with virtual training programs and training pods, which consisted of a mentor and mentee to ensure retention of training for new staff. One SWA emphasized how it successfully utilized virtual training to reduce the time to complete UI training from 6 weeks to 3 weeks. The successes of virtual hiring and training should be documented and considered for incorporation into standard training procedures even after the pandemic.

For investigatory roles, SWAs invested emergency funds into building out their technology and data analytics expertise for fraud prevention and fraudulent payment recovery. One SWA highlighted how a close relationship between analytics and investigations made for the strongest fraud detection and prevention regime as new fraud schemes emerged. SWAs hired in-house technologists and external vendors to fine-tune existing fraud indicator queries and develop new queries to improve fraud detection. Multiple SWAs established cyber fraud units to complement the work of traditional benefit payment control units; these cyber fraud units, in addition to general fraud training units that SWAs stood up, were critical to both executing fraud prevention and detection activities and providing necessary guidance to wider SWA staff, including claims processors, as new fraud tactics and events emerged.

To ensure that the technological, investigatory, and analytical expertise that SWAs developed over the course of the pandemic does not fade, these burgeoning capabilities and the talented employees who deliver them must be fostered and made permanent to the extent possible. Multiple SWA leaders expressed concern about their ability to sustain such capabilities due to the eventual withdrawal of emergency funds (federal and state) and the difficulty of keeping talented employees (investigators, technologists, and claims processors) on the payroll with limited budgets and caps on the number of permanent employees that SWAs can hire. Without more sustainable funding for permanent employees and an increase in the permanent employee cap, especially during periods of heightened unemployment, SWAs expressed that they would continue to struggle with persistent staffing shortages.

6.1.1.1. IT Modernization

For SWAs that had them, modernized IT systems were critical for both administering pandemic UI programs efficiently and preventing fraud. In a May 2021 report, DOL-OIG emphasized its finding that "states with modernized IT systems implemented CARES Act programs significantly faster than those using antiquated IT systems. The results of our analysis demonstrate a clear correlation between states' IT modernization status and the time needed to implement new PEUC and PUA programs. For example, states that completed IT modernization started the PEUC program 15 days faster and the PUA program 8 days faster (on average) than those still planning IT modernization."[20]

SWAs stressed the importance of modernized IT systems in helping them detect and prevent fraud. One SWA actually launched a fully modernized UI IT system in the middle of the pandemic (after having received funding for the modernization effort a few years earlier), providing a unique case study of the impact of IT modernization for pandemic UI fraud prevention. Before it launched its modernized IT system, this SWA had claims processing staff manually reviewing and freezing claims suspected to be fraudulent; its legacy IT system could not freeze suspicious claims in batches through staff direction or automation. The SWA knew this was a slow process that could not freeze suspicious claims at scale, but it was the best it could do at the time. With the introduction of its modernized IT system, the SWA froze in bulk batches all claims identified by its algorithms as suspicious; through this process, 150,000 suspicious claims were frozen on the first night of this modernized system's operations.

Other SWAs noted that modern IT and advanced analytics enabled them to build multilayer fraud defense tactics, which will be detailed further in the next section. These were critical for conducting the claim crossmatches needed to flag duplicative or potentially fraudulent claim information. These systems contrasted significantly with antiquated SWA IT systems described in a DOL-OIG audit, which, among other deficiencies, "did not have the mainframe capacity to perform cross-matches for such a large volume of claims" and "did not include [improper payment] detection and recovery functionality."[21]

Over the past 6 months, the importance of IT modernization has further been made evident by the DOL OUIM priority to develop "IT solutions to modernize antiquated state technology by centrally developing open, modular technology solutions that can be adopted by states as needed."[22] Through federal funding and hands-on technology co-development with SWAs, DOL OUIM "hopes to provide software to support end-to-end administration of UI, including benefit delivery, employer tools and appeals."[23]

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[20] U.S. Department of Labor Office of Inspector General, *COVID-19: States Struggled to Implement CARES Act Unemployment Insurance Programs*, 28 May 2021, https://www.oig.dol.gov/public/reports/oa/2021/19-21-004-03-315.pdf.

[21] Ibid.

[22] U.S. Department of Labor Employment and Training Administration, *Fact Sheet: Unemployment Insurance Modernization – American Rescue Plan Act Funding for Timely, Accurate and Equitable Payment in Unemployment Compensation Programs*, 11 August 2021, https://oui.doleta.gov/unemploy/pdf/FactSheet_UImodernization.pdf.

[23] Ibid.

6.1.2. Eligibility phase controls

SWAs implemented new techniques and technologies and enhanced existing techniques and technologies to tighten their eligibility phase controls. Given the sensitivity of SWA tactics and operations to prevent and detect fraud, there were limits to the tactical information that SWAs were willing to disclose. Despite this, MITRE was able to glean and can present higher-level observations on approaches and concepts that SWAs employed to detect, prevent, and deter UI fraud during the pandemic.

Upfront identity verification tools were lauded by multiple SWAs as critical to stopping fraudsters in their tracks. SWAs explained that there are many ways for fraudsters to either generate convincing personally identifiable information (PII) or steal actual PII, which can then be used to file for UI. Identity verification tools require proof of identity before an individual can move forward with any type of registration or claim process, thereby ensuring that the individual presenting the PII is indeed who they say they are. In the case of the PUA program, individual claimants had to prove their identity before receiving payment.

While identity verification tools are not foolproof, SWAs that implemented them saw a reduction in UI fraud associated with identity theft. One SWA emphasized that the incorporation of identity verification tools was associated with a significant decrease in the number of daily PUA claims and initial UI filings, which may suggest that knowledge of that SWA's identity verification requirement deterred would-be fraudsters from submitting initial unemployment claims. In summary, there are multiple identity verification technologies that SWAs can incorporate into their fraud prevention and detection tactics. The key for SWAs was to determine how best to fit identity verification into their existing IT architecture in a way that would enable them to achieve their desired balance between payment timeliness and integrity.

SWAs pursued different approaches to conditional payouts to claimants with unverified identities, even as federal and state executive orders pushed them to prioritize payment timeliness over payment integrity, especially for PUA. One state simply did not pay claimants whose identities could not be verified. Another state established a minimum payment amount for claimants with unverified identities until their identities could be confirmed. Yet another state established a "kill switch" (stop payment) mechanism that halted conditional payouts to claimants with unverified identities if there was an unexpected spike in UI claims that could indicate a fraud attack; the purpose of this "kill switch" is to ensure that a fraud event does not result in a massive continuous payout of conditional pay.

SWAs also implemented a range of other techniques to build a multilayer fraud defense. Multifactor authentication augmented identity verification tools in weeding out fraudsters filing claims with fake or stolen PII. Bot prevention and detection technologies were used to establish web application firewalls that, among other functions, were able to geo-block Internet Protocol addresses that came from areas known to generate a high degree of fraudulent claim activity. Additionally, SWAs would establish average claim submission baselines; any significant deviation above this average would flag to the SWA that it might be facing a potential fraud event. With the surge of legitimate claims early during the pandemic, significant deviations above the average did not always indicate fraudulent activity; however, as the pandemic progressed and SWAs were better able to handle the influx of claims, utilizing such baselines and deviations was effective for noting abnormal activity.

SWAs also iteratively updated the fraud indicators and filters used in their data analytics and cross-matching; fraud indicators are used to search across multiple claims and multiple data environments for commonalities (duplicate information) and fraudulent information that would flag a claim as illegitimate. This enabled them to expand the range of indicators that would mark a UI claim as suspicious as they encountered new fraud schemes and tactics over the course of the pandemic. One SWA noted that it started the pandemic with less than 10 standard fraud indicators and now has incorporated close to 60 indicators into its standard cross-matching analytics. Finally, some SWAs established risk-based scoring matrices to quantify the relative fraud risk associated with a particular claim; certain fraud indicators would weigh more heavily in the scoring scheme, enabling the SWAs to prioritize immediate review of the riskiest claims. On the other hand, this risk quantification was also used in some states to drive the speedy release and payment of relatively low risk claims that had been frozen.

Finally, timely and accessible data to query and crossmatch against was critical for SWAs in iterating on the fraud indicators incorporated into their analytics and using those analytics to detect and prevent fraud. NASWA's UI Integrity Center and its data tools and resources, including the Integrity Data Hub (IDH), played a pivotal role in enabling multi-state cross-matching efforts. One SWA explained it exchanged data files with NASWA daily for cross-matching purposes, and another SWA director remarked that UI fraud during the pandemic would have been much worse without NASWA serving as a hub for interstate data coordination. Some SWAs also emphasized that positive relationships with employers, who would provide more real-time worker records or forward fraud alert notices if an individual still employed by them filed for UI, were influential in getting reliable data that helped SWAs identify fraudulent claims.

6.1.3. Public communication

Public communication was a fraught topic across the SWAs that MITRE interviewed. All interviewees mentioned the tradeoff that exists between transparency with the public and the need to safeguard against the disclosure of counter-fraud tactics to fraudsters. One SWA highlighted how the public release of one of its counter-fraud tactics prompted bad actors to adjust their activities and succeed in evading SWA controls and detection through that particular tactic. Considering this, much of the public communication conducted by SWAs during the pandemic was less focused on deterring fraud through forceful messaging than it was on educating the public about the risks of fraud and identity theft and instructing the public on how to effectively communicate with the SWA. With that said, some SWAs did note that communication through law enforcement task forces that publicly messaged about UI fraud arrests and prosecutions could serve as an effective deterrent.

SWAs were forced to improve their communication pathways with the public because pandemic stay-at-home and social distancing guidelines resulted in the temporary closure of in-person centers and offices. Thus, SWAs had to transition from an in-person communication presence to a largely virtual communication presence. While the communication tactics detailed hereafter may seem simple, they were critical to enabling a reliable virtual presence to which citizens could turn for information related to UI.

SWAs increased their phone line capacity to accommodate higher call volumes, stood up contact centers, and utilized "contact us" web forms and automated message services to record customer

information without subjecting customers to long telephone wait times. One SWA emphasized its efforts to increase outreach to traditionally underserved communities, increasing the number of documents translated into non-English languages so more customers could self-serve and better understand and access the programs available.

SWAs also sought to make it easier to find critical information on their websites, standing up distinct UI fraud and identity theft webpages. These distinct pages provided information on how to identify and report UI fraud and identity theft as well as recommendations on what to do if an individual believed they were a victim of identity theft. These distinct fraud pages also provided links to related law enforcement webpages for reporting identity theft, although one SWA advised victims of identity theft to report directly to the SWA website because local law enforcement offices were not capable of dealing with identity theft associated with fraudulent unemployment insurance claims. Lastly, some SWAs sent mailings to claimants or those who had reported identity theft (employees and employers) as another medium through which to provide instructions and recommendations for protecting against and reporting identity theft.

Two isolated comments are worthy of note given the unique perspective they provide. First, one SWA proactively communicated to claimants about the incorporation of identity proofing technologies into its claims filing process in order to increase public trust in the UI system as well as expedite the claims submission and adjudication process by alerting claimants ahead of time that they should be prepared to verify their identities. Second, one SWA director emphasized the importance of educating the public about solid cyber hygiene and the creation of usernames and passwords that are not recycled across online accounts. While this latter point is not exclusive to PII theft associated with UI fraud, legitimate UI claimants would certainly benefit from better cyber hygiene.

6.1.4. Risk management

Risk is an event that, if it occurs, adversely affects an organization's ability to achieve its objectives. Risk management is a formal and disciplined practice for addressing risk and reducing it to an acceptable level. It includes identifying risks, assessing their probabilities and consequences, developing management strategies, and monitoring their state to maintain situational awareness of changes in potential threats. As such, risk management is critical to increasing the likelihood of successful program outcomes.

Risk management can be practiced on an individual project, within a specific program, or across the entire enterprise. The Association for Federal Enterprise Risk Management defines Enterprise Risk Management (ERM) as "a discipline that addresses the full spectrum of an organization's risks, including challenges and opportunities, and integrates them into an enterprise-wide, strategically-aligned portfolio view. ERM contributes to improved decision making and supports the achievement of an organization's mission, goals, and objectives."[24]

SWAs did not specifically mention use of risk management frameworks aside from the risk-based scoring matrices (described in Section 3.2.2) used to quantify the relative fraud risk

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[24] G. Milbourn, Dr. S. Brady, G. Ingber, J. Stehle.," GOVERNMENT-WIDE PAYMENT INTEGRITY: NEW APPROACHES AND SOLUTIONS NEEDED," The MITRE Corporation, Mclean, VA, April 2016

associated with a particular claim. However, they did note cultural shifts and tactical innovations that could help them identify and reduce fraud risk.

Representatives from multiple SWAs highlighted the tension between payment integrity and payment timeliness. They admitted that identity proofing and fraud prevention efforts on the front end can slow payment delivery to claimants. Modern identity verification technologies can enable payment integrity without creating claim backlogs as severe as those of the past, but prioritization of payment integrity and fraud prevention in SWA standard operating procedures naturally inhibits payment timeliness. Thus, to mitigate fraud risk at scale, one SWA stated, "The cultural change needs to be that everyone who touches UI should view payment integrity as part of their responsibility and bake anti-fraud into how we do business." However, the latitude that a particular SWA has to prioritize and operationalize payment integrity and risk management depends on state and local political sensitivities to potentially extended payment timelines.

Tactical innovations for risk management include novel vendor engagement and embrace of artificial intelligence and machine learning (AI/ML) for fraud discovery. One SWA mentioned its subscription to proprietary threat intelligence feeds to monitor the dark web for fraudster chatter about tactics and targets for UI fraud. Another SWA described its efforts to acquire enhanced (i.e., more timely) wage record data from a private vendor to supplement its databases for cross-matching and querying to flag and freeze suspicious claims. Lastly, multiple SWAs raised the potential value of AI/ML technologies that search claims for signs of fraud that fall outside standard rules-based fraud discovery filters. With commonly used rules-based discovery systems, SWAs are alerted only when hard-coded fraud indicators are identified in a claim; with AI/ML platforms, SWAs could potentially learn about previously undiscovered fraud schemes and tactics straight from patterns in claims data. One SWA director was particularly adamant about the use of AI/ML for fraud discovery, arguing that effective use of automation is paramount for 21st century UI fraud prevention. To pursue and sustain these tactical innovations and fraud prevention technologies, SWAs will require federal and state fraud prevention funding that is greater in both quantity and duration than the fraud prevention funding they were receiving before the pandemic.

7. KEY CONSIDERATIONS FOR FURTHER EXPLORATION

The administration of a decentralized, federated UI program requires collaboration and coordination involving multiple stakeholders, including DOL, SWAs, other federal agencies (e.g., Internal Revenue Service), and public-private entities. Stakeholder engagement and partnership is essential to foster alignment, agreement, adoption, and action on any suggestions. The U.S. Department of Labor recently established the OUIM to provide strategic leadership and work with state workforce agencies and federal partners to modernize and reform the unemployment insurance system. The following key considerations do not consider current or future initiatives by ETA or OUIM and have yet to be prioritized or adopted. These considerations should be considered as opportunities to couple with existing strategic initiatives to deliver transformational impact.

8. STANDARDIZE POLICIES AND PRACTICES FOR ADMINISTERING PAYMENTS TO CLAIMANTS SELF-CERTIFYING UNEMPLOYMENT AND CLAIMANTS WITH UNVERIFIED IDENTITIES

Since the passage of the CARES Act and implementation of the PUA program, ambiguous federal guidance about how to administer UI payments to claimants self-certifying unemployment and claimants with unverified identities has hampered SWAs' ability to prevent UI fraud. Absent clear federal direction, SWAs adopted varied policies and practices to handle these payments. To better support SWAs in fighting fraud associated with self-certification and unverified identities, DOL might consider developing requirements and standards for SWA administration of these unique and challenging UI payments.

DOL and SWAs cannot write off self-certification as a one-time pandemic-era solution that will not be relevant in future crises. Instead, DOL and SWAs need to reflect on their experience administering PUA with self-certification and record the lessons learned to build strategies and tactics to mitigate fraud associated with self-certification and unverified identities in future UI demand surges. They can take steps to make administration of these payments standard across states as well as targeted toward a balance between payment timeliness and payment integrity to which both DOL and SWAs agree. Key considerations related to this include:

- **DOL, in collaboration with SWAs, can determine a benchmark for UI fraud associated with self-certification and unverified identities that they are willing to tolerate during emergencies** – Effectively balancing fraud prevention with timely payment provision during UI emergencies requires federal and state fraud tolerance benchmarks, which can help SWAs calibrate their UI operations and tactics.

- **DOL, in collaboration with SWAs, can research, develop, and standardize conditional payment options to mitigate fraud losses when administering emergency UI programs under which claim information and identity verification is difficult** – Self-certified unemployment was extremely difficult for SWAs to verify during the pandemic as states tried to minimize fraud up front during the application process and comply with Federal guidelines to expedite payments, resulting in extreme losses to UI fraud. Considering this, it could be beneficial to explore conditional payment options in instances of unverified claimant information or identity that balance the need for timely payments against the need to reduce fraud risk.

- **DOL ETA, in collaboration with SWAs, can develop and conduct regular UI demand surge stress tests to prepare for future emergencies** – Based on stress test results, DOL ETA and SWAs can determine emergency response resources, guidance, and standard operating procedures needed to effectively balance fraud mitigation and payment timeliness.

8.1.1. DOL, in collaboration with SWAs, can determine a benchmark for UI fraud associated with self-certification and unverified identities that they are willing to tolerate during emergencies

Due to executive (federal and state) pressure on SWAs to prioritize payment timeliness over payment integrity during the early stages of the pandemic, especially after the instantiation of PUA, states were forced to put an unplanned emphasis on recovery of fraud losses associated

with payments to claimants self-certifying unemployment and claimants with unverified identities. To build resilience into UI systems, DOL, with input from SWAs, can explore regulating how SWAs operationalize the extreme prioritization of timeliness over payment integrity, which characterized the administration of pandemic UI programs, so as to mitigate fraud losses. In determining these operational regulations, unemployment self-certification and other eligibility schemes under which identity verification would be difficult must be factored in as potentially expedient methods to deliver payments to claimants during a UI demand crisis.

A benchmark (or bounds) for tolerable levels or rates of UI fraud associated with self-certification and unverified identities would be needed to underpin these operational regulations and inform how states operationalize the tradeoff between payment integrity and payment timeliness. DOL is best positioned to set this "tolerable fraud" benchmark at the federal level, and it could engage SWAs to receive their input about what is desirable and feasible for the benchmark. SWAs could then tailor and resource their fraud prevention operations and tactics to meet the federal benchmark, as opposed to trying unrealistically to prevent all UI fraud associated with self-certification and unverified identities at the expense of timely payment delivery.

An initial step toward establishing this benchmark would be to isolate pandemic UI fraud associated with self-certification and unverified identities from pandemic UI fraud rooted to other sources or gaps in the system. This would provide national and state-level foundational statistics on UI fraud associated with self-certification and unverified identities, which DOL and SWAs could use to begin determining reasonable benchmarks for tolerable UI fraud in emergency scenarios.

8.1.2. DOL, in collaboration with SWAs, can research, develop, and standardize conditional payment options to mitigate fraud losses when administering emergency UI programs under which claim information and identity verification is difficult

If it is envisioned that self-certification, or other UI eligibility schemes that make claim information and identity verification difficult for SWAs, will be instituted to improve payment timeliness in future UI crises, DOL, in collaboration with SWAs, might consider researching, developing, and standardizing conditional payment approaches that minimize fraud losses in instances of unverified claimant information or identity.

SWAs pursued different approaches to conditionally paying claimants with unverified identities or information, citing their approaches as critical to tightening post-delivery payment controls and preventing continued fraud through already-released claims with unverified information. Some SWAs made conditional payments to claimants with unverified PII up until a deadline, at which point identity verification was required for payments to continue. Incorporating identity verification tools into the claim submission process can reduce the number of claimants with unverified information. However, identity verification tools are not foolproof, so there is still a need for established conditional payment protocols to deal with instances of unverified claimant information. Another SWA maintains a "kill switch" (stop payment) mechanism that halts conditional payments to claimants with unverified PII if there is an unexpected spike in UI claims that may indicate fraudulent activity; this "kill switch" ensures that a fraud event does not result in a massive improper conditional payout. Yet another SWA explained that it only paid a minimum amount per conditional payment until the claimant's identity was verified.

Considering these distinct state practices, DOL, in collaboration with SWAs, can research and establish a standard set of effective conditional payment options for SWAs to employ if forced to administer UI programs under which payments are made to claimants with unverified PII. These options could enforce ceilings for the amount of money and length of time that a claimant with unverified information will be paid, and they could be applied consistently across states to close off opportunities for fraudsters to exploit differences in state conditional payment protocols and practices. Lastly, DOL and SWAs could refine these conditional payment approaches over time as they identify new fraud schemes and tactics.

8.1.3. DOL ETA, in collaboration with SWAs, can develop and conduct regular UI demand surge stress tests to prepare for future emergencies

Tactical, operational, and strategic actions need to be taken to prepare for future UI demand surges during which the prioritization of payment timeliness over payment integrity exacerbates the potential for severe UI fraud losses across the country. These actions could be determined and refined through regular stress tests administered by DOL ETA with SWAs.

Stress tests, whether through simulations or exercises, probe systems to determine how robust or brittle they might be in the face of extreme circumstances. For example, in the aftermath of the 2007-2009 financial crisis, Congress passed legislation—the Dodd-Frank Act—requiring the Federal Reserve to conduct capital planning stress tests to ensure that the nation's largest financial institutions had sufficient capital to weather severe economic downturns without significantly disrupting financial markets.[25] Stress test methodologies establish the requirements and performance metrics against which the organization being tested is evaluated.

DOL and Congress could consider regularly stress testing state UI systems to improve fraud prevention capabilities before the next unemployment crisis. Federal and state legislation requiring UI system stress testing might be needed to ensure DOL and SWAs adequately resource and prioritize it. Through lessons learned and weaknesses identified from regular stress test exercises, modeling, and simulation, DOL and SWAs would have a consistent feedback mechanism with which to develop fraud prevention resource requirements and standard operating procedures that help keep fraud within the organization's risk tolerance level while maintaining the prioritization of payment timeliness over payment integrity during unemployment crises.

DOL ETA, in collaboration with SWAs, could begin making UI system stress testing a reality by establishing UI stress test methodologies, which would evaluate how SWAs' people, processes, and technology perform under extreme UI surge circumstances with elevated fraud risk.

9. REQUIRE TIMELY FINANCIAL INSTITUTION COMPLIANCE WITH FRAUDULENT PAYMENT RECOVERY

Financial institutions are not currently required to return UI funds identified by SWAs or other state authorities as fraudulent within an established timeline; this challenges the ability of SWAs to recover those funds. The regulatory authority to establish a required timeline for expedient

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[25] Board of Governors of the Federal Reserve System, "Stress Tests and Capital Planning," 5 August 2021, https://www.federalreserve.gov/supervisionreg/stress-tests-capital-planning.htm.

financial institution compliance with fraudulent payment recovery may be outside DOL's purview and require federal legislation.

Multiple SWAs raised the recovery of identified fraudulent payments from financial institutions as a major challenge to increasing improper payment recovery rates during the pandemic. This challenge is rooted to the fact that there is no federal regulation compelling banks and financial institutions to expeditiously return identified fraudulent UI payments to state UI trust funds before those fraudulent payments are withdrawn and no longer recoverable.

Washington state has emerged as a leader in recovering stolen UI funds through its attorney general's use of the state's "asset forfeiture power to recover stolen funds"; Washington is the first state to utilize this authority to recover stolen funds not yet withdrawn from financial institutions.[26] The Washington Employment Security Department shared its UI fraud data with the Attorney General's Office, supporting the attorney general with case development to subpoena "35 banks across the country to identify accounts with balances of $1,000 or more that bore…indicators of fraud."[27] The Washington Attorney General intends to continue utilizing the state's asset forfeiture authority to recover identified stolen UI funds from financial institutions.

Despite Washington's success, the lack of urgency by financial institutions in returning stolen UI funds held in their accounts to state UI trust funds poses a significant obstacle to SWAs, warranting federal regulation that helps SWAs expediently recover stolen UI funds from financial institutions before they can be withdrawn. DOL did issue Unemployment Insurance Program Letter (UIPL) No. 19-21 in May 2021 providing "guidance to states on the proportional distribution methodology for recovering [comingled] federally funded UC benefits, which are held by banks and financial institutions as a result of suspicious and/or potentially fraudulent activity."[28] However, much of the language in that UIPL places the onus of outreach for fraudulent payment recovery on the SWAs rather than the financial institutions. To improve fraudulent payment recovery rates, financial institutions need to be required to be more proactive in returning identified fraudulent UI payments sitting in their accounts before they are withdrawn by fraudsters.

Representatives from one SWA further explained that they have not received any guidance from the U.S. Department of Labor during the pandemic about subpoenaing financial institutions and compelling their compliance with improper payment recovery. Considering this, the Department of Labor, Department of Justice, and other federal agencies involved in financial institution oversight could consult with Washington and any other states beginning to use asset forfeiture

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[26] Washington State Office of the Attorney General, "Attorney General Ferguson uses innovative approach to recover $495,000 in stolen unemployment benefits," 25 October 2021, https://www.atg.wa.gov/news/news-releases/attorney-general-ferguson-uses-innovative-approach-recover-495000-stolen.

[27] Ibid.

[28] U.S. Department of Labor Employment and Training Administration, *Advisory: Unemployment Insurance Program Letter No. 19-21; Subject: Benefits Held by Banks and Financial Institutions as a Result of Suspicious and/or Potentially Fraudulent Activity and the Proportional Distribution Methodology Required for Recovering/Returning Federally Funded Unemployment Compensation (UC) Program Funds*, 4 May 2021, https://wdr.doleta.gov/directives/attach/UIPL/UIPL_19-21.pdf.

powers to recover stolen UI funds about the regulatory framework needed to compel timely financial institution compliance with fraudulent payment recovery.

A working group could be identified to research and define the responsibilities of financial institutions and SWAs in meeting timely fraudulent payment recovery requirements, the timelines by which those responsibilities must be fulfilled, and the associated reporting requirements.

10. DOL NEEDS TO HELP SWAS DETERMINE ELIGIBILITY AND MAKE MORE INFORMED ELIGIBILITY DECISIONS THROUGH REQUIREMENTS THAT COLLECT ADDITIONAL DETAIL

DOL has previously considered using enhanced wage records (EWR) for UI program administration to gain more insight into employment outcomes related to training and education and state and local area information on employment by occupation, hours of work, and wages, which can inform employer location and recruitment decisions and enable the production of occupational wage trends that cannot currently be produced.[29] Benefits of EWR would also help to address the number and types of fraudulent claims related to claimant employment history. In addition to challenges with the verification of identities, validating specific employment attributes—status of employment, occupational codes, hours worked, etc.—is not attainable with the current data attributes captured by most states;[30] the information is also provided quarterly as opposed to monthly or even bi-weekly. One SWA explained that access to EWR could have greatly reduced the number of fraudulent claims because the department would have been able to confirm claimant employment histories with more recent information. The additional specificity into a claimant's work history could be matched against the initial UI claim to accurately determine currency of employment and type of employment.

As identified in other wage information reports, DOL should consider implementing the following activities to institute the usage of EWR.

10.1.1. Pilot EWR

DOL ETA has been working with the Workforce Information Advisory Council to identify the challenges, benefits, and pathways to establish EWR.[31] Recent council recommendations include advocating for the adoption of EWR by including information on the occupational job title(s), hours worked, and job site location; engaging the private sector for successful adoption; and appointing a leader from within the Secretary's Office or Deputy Secretary's Office to oversee this initiative, pulling in the appropriate individuals in the public and private sectors to achieve

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[29] Workforce Information Advisory Council, *Recommendations for the Improvement of the Workforce and Labor Market Information System*, 2018, https://www.dol.gov/sites/dolgov/files/ETA/wioa/pdfs/WIAC-Recommendations-Report-DRAFT-for-Secretary-v2.pdf.

[30] Increased Reporting Frequency: Illinois now requires some employers to report monthly, which, if expanded to other states, could broaden the benefits, and uses of the wage records.

[31] Workforce Information Advisory Council August 2021 summary meeting notes outline several recommendations for the Secretary of Labor, August 2021, https://www.dol.gov/sites/dolgov/files/ETA/wioa/pdfs/Minutes_8.31.21.pdf.

the recommendations. The changes will require changes to policy, business processes, and technical workstreams.

The establishment of an EWR pilot could provide a means to test the changes and the impacts with key stakeholders and identify any additional business process or technology changes required to provide the level of specificity SWAs require to accurately determine eligibility. A pilot program to improve the capture of individual-level data to help establish currency of employment records[32] (i.e., when an employee was employed and duration as well as status, hours worked, and occupational codes using existing enhancements in information records) could demonstrate the utility of EWR for deterring fraudulent claims during the registration phase. The pilot could include the ability to determine federal and state reporting requirements to be addressed, scenarios to crossmatch employment records history to claimants' UI registration information, development of comprehensive status reports, and establishment of a universal data dictionary. DOL can formalize the requirements to collect the data with more specificity by reviewing existing regulatory authorities that define data definitions and schemas, obtaining Paperwork Reduction Act approval as part of digital transformation, and satisfying any other legislative requirements.

10.1.2. Deploy policy, business process, and technical guidance based on the pilot to instantiate EWR

Based on the lessons learned from piloting EWR, DOL could determine the implementation strategy including formalizing the policy recommendations, the business processes, and technical requirements, including data and technical integration to deploy across the landscape of UI programs. DOL could also consider establishing a working group to monitor and review the implementation, identify suggested future EWR enhancements, and incorporate metrics to reveal EWR's effectiveness in preventing UI fraud.

11. DOL COULD DEVELOP UI FRAUD PREVENTION (PRE-AWARD) PERFORMANCE MEASURES

Current DOL performance measures incentivize SWA counter-fraud efforts after claim payout (i.e., "right of check"). In its agency strategic plans and annual performance reports, DOL tracks three performance measures related to its strategic objective to "support states' timely and accurate benefit payments for unemployed workers"—payment timeliness, detection of recoverable overpayments, and improper payment rate. As the DOL Fiscal Year 2020 Annual Performance Report makes clear, decreasing UI improper payments was an agency priority goal under the Trump administration; more specifically, the goal was for the UI improper payment rate to be 9% by September 30, 2021.[33] While these measures are important, federal performance measures that incentivize fraud prevention investments and activities that take place prior to

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[32] Transformational Pathway Recommendation as specified in https://www.nga.org/futureworkforce/policies/data-and-assessment/#:~:text=Indiana%2C%20Illinois%20and%20Missouri%3A%20The%20Coleridge%20Initiative%20Pilot,%E2%80%93%20as%20long%20as%20federal%20minimums%20are%20met.

[33] U.S. Department of Labor, *FY 2020 Annual Performance Report*, https://www.dol.gov/sites/dolgov/files/general/budget/2022/CBJ-2022-V1-01.pdf.

claim payout (i.e., "left of check" or pre-award) can be explored. Furthermore, SWAs could be recognized and rewarded for fraud prevention investments and activities that take place prior to claim payout.

As MITRE heard from multiple SWAs, SWAs need to undergo a cultural shift from prioritizing detection and recovery of fraudulent payments to prioritizing prevention of fraudulent payments. However, this cultural shift cannot happen unless DOL advances agency performance measures that quantify and reward pre-payment fraud prevention activities. If DOL incorporates fraud prevention into its evaluation of SWAs' performance, it may incentivize SWAs to dedicate staffing and resourcing to fraud prevention like they do with improper payment detection and recovery. Such federal performance measures for fraud prevention may spur SWAs to proactively and robustly staff and resource UI fraud prevention investments and activities.

SWAs could work with DOL to categorize and quantify their current fraud prevention investments and activities and propose achievable, or aspirational, fraud prevention measures that could be standardized across states. These measures could encourage SWAs to invest in staff and IT to prevent fraud, and they could capture SWA strides and success in making more accurate eligibility and payment determinations; additionally, they could lend themselves to straightforward reporting so that SWAs could simply document the success of their "left of check" fraud prevention investments and activities.

An increased focus on fraud prevention could reduce payment timeliness by lengthening the claim review process (although ID proofing technologies may mitigate this). However, this focus deserves consideration given the extreme levels of fraud during the pandemic. This cultural shift trickling down to SWAs may be best achieved through codification at the federal level in the form of DOL UI fraud prevention performance measures.

12. DOL, IN COLLABORATION WITH SWAS, CAN EXPLORE REQUIREMENTS FOR CONSISTENT DATA USAGE AND CLAIM ADJUDICATION RISK ASSESSMENT PROTOCOLS TO PREVENT FRAUD

In its audits of UI program administration throughout the pandemic, DOL-OIG has consistently cited insufficient SWA data transparency and sharing as an impediment to more effective fraud prevention. DOL has sought to facilitate cross-state information and data sharing by funding the UI Integrity Center IDH operated by NASWA. Despite this, there is no mechanism ensuring consistent use of data and claim adjudication protocols across states to prevent fraud. Considering this, DOL, in collaboration with SWAs, can explore data usage and claim adjudication risk assessment protocol requirements as a condition for states to receive federal funding for UI program administration. In doing so, DOL and SWAs would move past discussion of data and information sharing into concrete and potentially binding steps to align their counter-fraud technologies and processes.

More specifically, DOL and SWAs could jointly determine the UI datasets required for fraud checks as well as the standard fraud indicators that SWA investigators and algorithms should be scanning for in those datasets. With this said, SWAs should obviously have the flexibility to scan for fraud indicators outside the standard set agreed to with DOL, as they are on the front lines of fraud prevention and consequently best positioned to identify emerging fraud indicators.

However, mandated usage of agreed-upon UI datasets and fraud indicators could be beneficial in overcoming some of the downsides of our federated UI system.

Finally, DOL, with input from SWAs, can establish standard protocols or guidance for how SWAs should make a UI claim adjudication decision based on the identification of a particular fraud indicator or set of fraud indicators; in this way, DOL could begin to bring consistency to fraud risk scoring and assessments, which are currently done individually by SWAs based on their internal evaluation of the severity of particular fraud indicators.

Establishing and executing claim adjudication risk assessment protocols are currently the purview of SWAs, but DOL has already taken steps during the pandemic to bring greater uniformity to state-administered UI programs. For example, DOL is already incentivizing standardization of SWA IT and fraud prevention systems by making "identification verification services available to states to purchase."[34] Furthermore, to overcome some of the obstacles to data integration at scale that have enabled fraudsters to exploit cross-state UI enforcement gaps during the pandemic, DOL has conditioned federal fraud prevention grants on SWA compliance with federal data and information sharing requirements.

In the Employment and Training Administration's August 2021 UI Program Letter No. 22-21 notifying SWAs "regarding the availability of up to $140 million to support states with fraud detection and prevention, including identity verification and overpayment recovery activities, in all UC (Unemployment Compensation) programs," grant conditionality is used as a mechanism to nudge data and information sharing between SWAs and DOL.[35] Specifically, "as a condition of receiving funding…[states] must agree to provide all confidential UC information to DOL-OIG for purposes of both investigating fraud and performing audits through weeks of unemployment ending before December 31, 2023."[36] Consideration of standardized UI fraud prevention datasets, indicators, and risk assessment protocols would align with this already existing federal effort to make SWA fraud prevention investments and activities more consistent.

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[34] U.S. Department of Labor Employment and Training Administration, *Fact Sheet: Unemployment Insurance Modernization - American Rescue Plan Act Funding for Timely, Accurate and Equitable Payment in Unemployment Compensation Programs*, 11 August 2021, https://oui.doleta.gov/unemploy/pdf/FactSheet_UImodernization.pdf.

[35] U.S. Department of Labor Employment and Training Administration, *Advisory: Unemployment Insurance Program Letter No. 22-21; Subject: Grant Opportunity to Support States with Fraud Detection and Prevention, Including Identity Verification and Overpayment Recovery Activities, in All Unemployment Compensation (UC) Programs*, 11 August 2021, https://wdr.doleta.gov/directives/attach/UIPL/UIPL_22-21.pdf.

[36] Ibid.

APPENDIX A - METHODOLOGY

Environmental Scan

Overview

This assessment report provides valuable information to key stakeholders, including the public, Congress, executive branch agencies, and SWAs on best practices and lessons learned from the implementation of pandemic UI programs. MITRE's environmental scan leveraged a variety of information sources to characterize the current landscape, highlight challenges and obstacles, and identify areas for improvement.

MITRE used a qualitative data-gathering protocol to capture the factors that affected the execution of state UI programs during the pandemic and the processes, governance, and technology involved in UI program execution. The protocol provided a systematic approach to discover and document the challenges, successes, and opportunities raised during MITRE's interviews and document review. MITRE conducted the analysis in four steps as shown in the figure below.
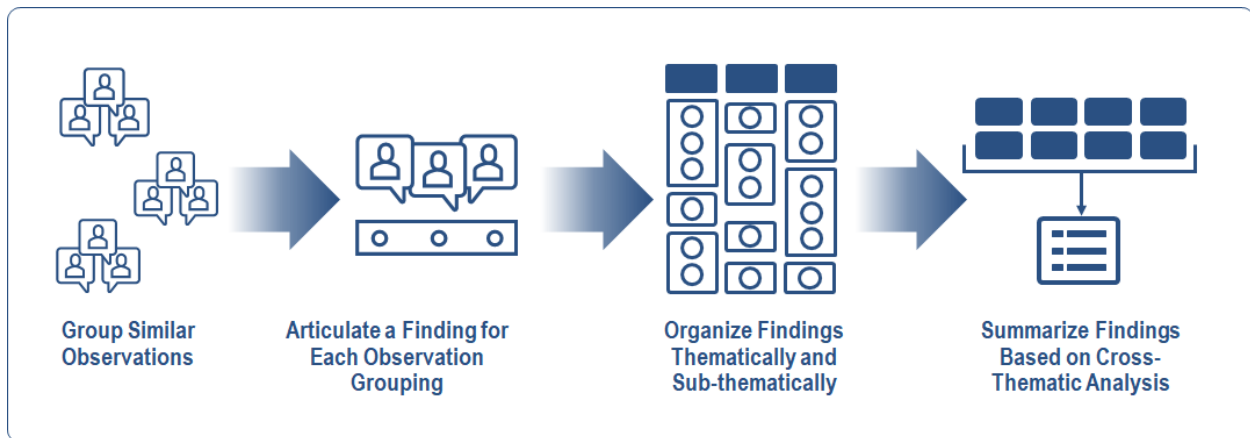

Figure 2 Evaluation Methodology

The analysis process synthesizes information gathered from the stakeholder interviews and document reviews. Initially, observations are gathered from these data sources. Observations are specific facts drawn from the document review or interview comments; they are directly attributable to a particular data source. The team categorizes and collates the observations into broader findings and themes and uses these to highlight best practices, lessons learned, and optimal approaches for implementing pandemic UI programs. Findings are key inferences drawn from the observations. Themes are high-level concepts that recur across multiple findings; themes group findings to communicate the broadest analytical takeaways.

References and Source Documentation

Table 2 Study Sources

Title/Name	Author	Date	Description
Advisory Report – CARES Act: Initial Areas of Concern Regarding Implementation of Unemployment Insurance Provisions	Department of Labor Office of Inspector General (DOL-OIG)	Apr-20	Report
Alert Memorandum: The Pandemic Unemployment Assistance Program Needs Proactive Measures to Detect and Prevent Improper Payments and Fraud	DOL-OIG	May-20	Memorandum
Unemployment Insurance Program Letter No. 23-20: Program Integrity for the Unemployment Insurance (UI) Program and the UI Programs Authorized by the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020 – Federal Pandemic Unemployment Compensation (FPUC), Pandemic Unemployment Assistance (PUA), and Pandemic Emergency Unemployment Compensation (PEUC) Programs	Department of Labor Employment and Training Administration (DOL ETA)	May-20	Memorandum
Response to the Office of Inspector General's (OIG) Alert Memorandum: The Pandemic Unemployment Assistance Program Needs Proactive Measures to Detect and Prevent Improper Payments and Fraud	DOL ETA	Jun-20	Memorandum
Top Pandemic Challenges Facing the U.S. Department of Labor	DOL-OIG	Jun-20	Report
Unemployment Insurance Program Letter No. 25-20: Benefit Accuracy Measurement (BAM) Program Operations in Response to the Coronavirus Disease of 2019 (COVID-19) Pandemic	DOL ETA	Jun-20	Memorandum
Countering Fraud in Social Benefit Programmes: Taking Stock of Current Measures and Future Directions	OECD	Jul-20	Report
COVID-19: More Can Be Done to Mitigate Risk to Unemployment Compensation Under the CARES Act	DOL-OIG	Aug-20	Report
Unemployment Insurance Program Letter No. 28-20: Addressing Fraud in the Unemployment Insurance (UI) System and Providing States with Funding to Assist with Efforts to Prevent and Detect Fraud and Identity Theft and Recover Fraud Overpayments in the Pandemic Unemployment Assistance (PUA) and Pandemic Emergency Unemployment Compensation (PEUC) Programs	DOL ETA	Aug-20	Memorandum
COVID-19: States Cite Vulnerabilities in Detecting Fraud While Complying with the CARES Act UI Program Self-Certification Requirement	DOL-OIG	Oct-20	Report
Unemployment Insurance Program Letter No. 9-21: Continued Assistance for Unemployed Workers Act of 2020 (Continued Assistance Act) – Summary of Key Unemployment Insurance (UI) Provisions	DOL ETA	Dec-20	Memorandum

Title/Name	Author	Date	Description
Alert Memorandum: The Employment and Training Administration (ETA) Needs to Ensure State Workforce Agencies (SWAs) Implement Effective Unemployment Insurance Program Fraud Controls for High Risk Areas	DOL-OIG	Feb-21	Memorandum
Update: Top Challenges in Pandemic Relief and Response	Pandemic Response Accountability Committee (PRAC)	Feb-21	Report
Response to the Office of Inspector General's Alert Memorandum: Employment and Training Administration Needs to Ensure State Workforce Agencies Implement Effective Unemployment Insurance Program Fraud Controls for High Risk Areas	DOL ETA	Mar-21	Memorandum
2021 State of the Workforce Report: Responding to the Pandemic	National Association of State Workforce Agencies (NASWA)	Mar-21	Report
Unemployment Insurance Program Letter No. 14-21: American Rescue Plan Act of 2021 (ARPA) – Key Unemployment Insurance (UI) Provisions	DOL ETA	Mar-21	Memorandum
Pandemic Response Oversight Plan	DOL-OIG	Apr-21	Report
Unemployment Insurance Program Letter No. 16-21: Identity Verification for Unemployment Insurance (UI) Claims	DOL ETA	Apr-21	Memorandum
COVID-19: States Struggled to Implement CARES Act Unemployment Insurance Programs	DOL-OIG	May-21	Report
Unemployment Insurance Program Letter No. 20-21: State Instructions for Assessing Fraud Penalties and Processing Overpayment Waivers under the Coronavirus Aid, Relief, and Economic Security (CARES) Act, as Amended	DOL ETA	May-21	Memorandum
Unemployment Insurance Program Letter No. 19-21: Benefits Held by Banks and Financial Institutions as a Result of Suspicious and/or Potentially Fraudulent Activity and the Proportional Distribution Methodology Required for Recovering/Returning Federally Funded Unemployment Compensation (UC) Program Funds	DOL ETA	May-21	Memorandum
Alert Memorandum: The Employment and Training Administration Needs to Issue Guidance to Ensure State Workforce Agencies Provide Requested Unemployment Insurance Data to the Office of Inspector General	DOL-OIG	Jun-21	Memorandum
Alert Memorandum: The Employment and Training Administration Does Not Require the National Association of State Workforce Agencies to Report Suspected Unemployment Insurance Fraud Data to the Office of Inspector General or the Employment and Training Administration	DOL-OIG	Jul-21	Memorandum

Title/Name	Author	Date	Description
Unemployment Insurance Program Letter No. 23-21: Grant Opportunity for Promoting Equitable Access to Unemployment Compensation (UC) Programs	DOL ETA	Aug-21	Memorandum
Unemployment Insurance Program Letter No. 22-21: Grant Opportunity to Support States with Fraud Detection and Prevention, Including Identity Verification and Overpayment Recovery Activities, in All Unemployment Compensation (UC) Programs	DOL ETA	Aug-21	Memorandum
Lessons Learned in Oversight of Pandemic Relief Funds	Pandemic Response Accountability Committee (PRAC)	Aug-21	Report
Fact Sheet: Unemployment Insurance Modernization – American Rescue Plan Act Funding for Timely, Accurate and Equitable Payment in Unemployment Compensation Programs	DOL ETA	Aug-21	Memorandum
Top Management and Performance Challenges Facing the U.S. Department of Labor	DOL-OIG	Nov-21	Report
Pandemic Response Accountability Committee (PRAC)	-	-	Interview
Department of Labor Employment and Training Administration (DOL ETA)	-	-	Interview
Department of Labor Office of Unemployment Insurance Modernization (DOL OUIM)	-	-	Interview
Department of Labor Office of Inspector General (DOL-OIG)	-	-	Interview
National Association of State Workforce Agencies (NASWA) UI Integrity Center	-	-	Interview
Identity Theft Resource Center (ITRC)	-	-	Interview
Nevada Department of Employment, Training and Rehabilitation (DETR)	-	-	Response to Request for Information
Oregon Employment Department (OED)	-	-	Response to Request for Information
Iowa Workforce Development (IWD)	-	-	Response to Request for Information
Georgia Department of Labor	-	-	Interview
Connecticut Department of Labor	-	-	Interview
Washington State Employment Security Department (ESD)	-	-	Interview
Idaho Department of Labor	-	-	Interview

Title/Name	Author	Date	Description
New Jersey Department of Labor and Workforce Development	-	-	Interview
Michigan Department of Labor and Economic Opportunity (LEO)	-	-	Response to Request for Information
Arizona Department of Economic Security	-	-	Report
Colorado Department of Labor and Employment	-	-	Interview
Virgin Islands Department of Labor	-	-	Interview

APPENDIX B – ACRONYMNS

Acronym	Definition
AI	Artificial Intelligence
ARP	American Rescue Plan
CARES	Coronavirus Aid, Relief, and Economic Security Act of 2020
DOL	Department of Labor
ERM	Enterprise Risk Management
ETA	Employment and Training Administration
EWR	Enhanced Wage Records
IDH	Integrity Data Hub
MITRE	The MITRE Corporation
ML	Machine Learning
NASWA	National Association of State Workforce Agencies
OECD	Organisation for Economic Co-operation and Development
OIG	Office of Inspector General
OUIM	Office of Unemployment Insurance Modernization
PEUC	Pandemic Emergency Unemployment Compensation
PII	Personally Identifiable Information
PRAC	Pandemic Response Accountability Committee
PUA	Pandemic Unemployment Assistance
SWA	State Workforce Agency
Treasury	U.S. Department of the Treasury
UC	Unemployment Compensation
UI	Unemployment Insurance
UIPL	Unemployment Insurance Program Letter