PANDEMIC UNEMPLOYMENT ASSISTANCE FRAUD

The prevalence of unemployment fraud and overpayments during the pandemic has been widespread – from using the identities of the deceased to those who are incarcerated to higher-profile individuals such as the Governor of Arkansas.[1] In just one case, a Nigerian fraud ring known as "Scattered Canary" extracted hundreds of millions of dollars in unemployment insurance from at least 11 different states in 2020.[2] While the improper payment rate for the regular unemployment insurance (UI) program was already as high as 10 percent pre-pandemic, which would amount to $89 billion over the past year, the U.S. Department of Labor (DOL) Office of the Inspector General's initial audit suggests the improper payment rate, including fraudulent payments, during the pandemic has been much higher.[3] A recent Axios article reports that an estimated $400 billion may have been stolen, which is almost half of all pandemic unemployment spending.[4]

BACKGROUND

- **The CARES Act temporarily expanded eligibility for unemployment benefits:**
  - While states have extensive flexibility in determining their regular unemployment insurance benefit levels, the Coronavirus Aid, Relief, and Economic Security (CARES) Act, which was signed into law by President Trump on March 27, 2020, provided funding for states to expand UI to many workers who were impacted by COVID-19 but not normally eligible for unemployment benefits.[5]
  - Under the CARES Act, these workers who were not normally eligible for UI, such as self-employed workers, could apply for benefits through their state under the new federally-funded Pandemic Unemployment Assistance (PUA) program.[6] The American Rescue Plan Act extended the availability of PUA through the week ending September 6, 2021.[7]

- **Unemployment claims and benefit payments reached record highs during the pandemic:**
  - As unemployment rose to the highest levels since the Great Depression and Congress expanded eligibility for unemployment benefits, the Treasury Department reported $93.7 billion spent by the states and federal government on unemployment insurance in May of 2020 alone, compared to $2.1 billion spent in the same month the year prior.[8]
  - $107 billion has been disbursed through May 8 by the DOL for the PUA program specifically with hundreds of billions in federal dollars going to unemployment insurance broadly during the pandemic.[9]

- **With the expansion of eligibility and high unemployment rates, fraud and overpayments exploded:**
  - As unemployment claims and disbursements reached record highs during the pandemic with an unprecedented infusion of federal funds, fraud also exploded.[10] According to the OIG, the PUA program is particularly susceptible to fraud due to claimants' self-certification.[11]
  - Consequently, numerous states have partnered with cybersecurity firms such as ID.me to provide identity verification for the PUA program to reduce fraudulent claims.[12] According to ID.me, at least 30% of new claims under the PUA program are fraudulent, and they have prevented 1.6 million fraudulent claims as of May 2.[13] In one example, Idaho's Department of Labor reports that before it contracted with ID.me in December 2020, more than half of the initial claims filed were fraudulent.[14]
  - In addition, the DOL reported that states made over $3.6 billion in PUA overpayments, which do not

even include all fraudulent payments, between March 2020 and February 2021.[15]

POLICY SOLUTIONS

- The COVID-19 Relief and Fiscal 2021 Omnibus, which was signed by President Trump on December 27, 2020, included some helpful measures toward preventing fraud in the PUA program. It required that individuals provide documentation substantiating employment or self-employment within 21 days of being approved to receive PUA. Also, it required states to have procedures in place for identity verification or validation to administer the PUA program. Although an improvement, applicants should provide this documentation prior to approval. Additionally, the DOL should continue to ensure that states are complying with all applicable PUA requirements to ensure PUA is going to those who are truly in need. As the Attorney General of Rhode Island, Peter Neronha, noted after a joint state-federal investigation uncovered a $1.2 million fraud operation perpetrated by only four individuals, "When people collect benefits they aren't entitled to, as is alleged here, they reduce the amount of benefits that are available to those who are eligible and who really need them."[16]

- While these recently enacted prevention measures were desperately needed, Congress can do more about overpayments. The December 2020 COVID-19 Relief and Fiscal 2021 Omnibus allows states to waive the requirement to retrieve PUA overpayments when the individual is not at fault.[17] Congress should consider amending this authority to ensure states are proactively correcting overpayment problems in their systems. Whether improperly paid funds are by retrieved from recipients or pulled from a state's general tax revenue, states should be required to reimburse the federal government for overpayments. Whether by mistake or malicious intent, Congress should ensure valuable taxpayer dollars are not going to waste.
  In addition, the Government Accountability Office (GAO) also recommends that the DOL "collect data from states on the amount of overpayments waived in the PUA program," as is done with regular UI.[18]

- To further limit improper payments, the Office of the Inspector General for the DOL recommends states cross match claims against the National Directory of New Hires and with the Social Security Administration prisoner database.[19] In Pennsylvania, an investigation discovered that over 10,000 inmates in state facilities were found trying to apply for unemployment benefits, amounting to over $100 million in fraud with nearly $200 million in fraud once local prisons were added in.[20] Also, states should be required to use the National Association of State Workforce Agencies' Integrity Database Hub and the State Information Data Exchange System.[21]

- States play a fundamental role in carrying out the PUA program and all UI programs. Therefore, states may choose to consider additional cross checks. Also, as some already have, states may work to build technology to check background identity including if the IP address is location in the state of the filed claim or if the same IP address was uses to file multiple claims in a short time period.[22]

- Since unemployment benefits are subject to income taxation, many victims of identity theft and fraud have been surprised to receive letters or 1099-G forms to pay taxes for benefits they never received.[23] Considering the extraordinary level of fraud over the past year, Congress should do more to better protect these victims of identity theft to ensure they are not liable for penalties or interest to the Internal Revenue Service (IRS) for not reporting income from benefits that were never received.[24]

- Although Congress waived the requirement for claimants to prove they are actively seeking work to receive unemployment insurance due to the health risk during the pandemic, the requirement should be reinstated now that adults have had sufficient time to receive a vaccine if desired.

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