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TESTIMONY SUBMITTED TO THE U.S. SENATE COMMITTEE ON FINANCE

Hearing on Reducing Overpayments and Increasing Quality in the Unemployment System

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Chairman Baucus, Ranking Member Grassley, and distinguished members of the Committee, thank you for the opportunity to testify today at this hearing on the important subject of “Reducing Overpayments and Increasing Quality in the Unemployment System.”

I am Roberta Gassman and I serve as the Secretary of the Wisconsin Department of Workforce Development. I have been honored to serve under Governor Jim Doyle in his Cabinet and as the Secretary of this department since he took office in 2003.

With its 1,645 employees, the Department of Workforce Development’s mission is to meet the needs of workers and employers in strengthening Wisconsin’s workforce. The agency provides employment and training services, works with employers to fill jobs, enforces workers’ rights, and administers the Unemployment Insurance, Apprenticeship and Worker’s Compensation programs.

INTRODUCTION

We in Wisconsin have a proud tradition of protecting workers and their families in order to keep both our workforce and our workplaces strong. Wisconsin, in fact, was the first state to establish an unemployment compensation program, in response to the Great Depression. It was also the first state to enact Worker’s Compensation and a modern apprenticeship program, as well as one of first states to prohibit discrimination on the basis of race and national origin. Many of these path-breaking policies came about as a result of the “Wisconsin Idea,” the idea that “the boundaries of the University are the boundaries of the state,” with important input into public policy innovations from the University of Wisconsin-Madison.

Today, our nation finds itself emerging from the deepest economic downturn since the Great Depression. The downturn has taken a toll on every state, especially on heavy manufacturing states, and Wisconsin is the number one state in the country in terms of the percent of our workforce that works in the manufacturing sector.

Although Wisconsin’s unemployment rate has been lower than all of the other Midwestern heavy manufacturing states during this recession, it has been a very challenging period for all of our citizens

who have lost jobs. Unemployment Insurance (UI) has been a lifeline for those who are out of work through no fault of their own. Total UI payments in Wisconsin have risen from less than \$1 billion in 2007 to \$3.1 billion in 2009. Those payments not only support our workers and their families, but our businesses and communities as well.

Thanks to Congress and President Obama, UI benefit extensions have been a critical help for every state, including my own. Wisconsinites are currently eligible for up to 99 weeks of benefits. Extension of the existing federal UI benefit programs through 2010 is vital to support working families as they struggle to get back on their feet and I am very pleased that a year-end extension is scheduled to come to the Senate floor this week.

The focus of our UI program in Wisconsin, during this economic downturn, has been to get checks to eligible workers quickly and efficiently, while also being vigilant about program integrity and protecting employer and taxpayer dollars. To meet those goals during a historic national recession, we have increased our UI staff by a third, extended call hours, reassigned staff, added phone lines, and doubled our computer server capacity. Because of those efforts, we have cut claimant wait times on our phone inquiries lines dramatically and we have been able to continue to maintain our goal of having most new claimants receive their first payment in less than a week.

Today, we continue to see evidence of economic recovery in Wisconsin and across the nation. Thanks to Governor Doyle's "Grow Wisconsin" agenda and action by President Obama and Congress to implement the American Recovery and Reinvestment Act, we are helping put Wisconsin back to work. Just last week we learned that Wisconsin gained more jobs last month, in April, than in any month since 1996—14 years ago. Wisconsin has gained 32,000 jobs during the first four months of 2010.

Despite that progress, many Americans, including many Wisconsinites, remain out of work through no fault of their own. We at the Wisconsin Department of Workforce Development are working hard, every day, to strengthen customer service and meet worker and employer needs.

One way we have been keeping our UI system strong is by focusing on program integrity. Reducing overpayments—whether they are inadvertent or intentional—benefits everyone. It benefits claimants because paying back overpayments is a substantial burden. It benefits employers who are unfairly charged for benefits when overpayments occur. Finally, it protects the investment of the federal government in extended benefits.

ABOUT WISCONSIN'S UNEMPLOYMENT INSURANCE SYSTEM

Administering unemployment benefits, which occurs at the state level, involves a number of efforts. For example, states are responsible for:

1. Processing benefit payments for both state and federal claims;
2. Preventing overpayments and fraud;
3. Answering thousands of questions they receive from UI beneficiaries and employer taxpayers; and,
4. Resolving disputes between UI claimants and employers in the claims adjudication process.

Wisconsin is particularly proud that we have maintained excellent timeliness of first payments to UI claimants even during the most challenging months of the recession. We have also made great progress in improving the timeliness of providing eligibility decisions when issues must be resolved before payments can begin. The USDOL has made it clear to the states that despite our high claims volumes, we must maintain strong performance and accountability. We in Wisconsin agree.

These have been extraordinary times for the UI program, given the national economy. As expected, with an increase in payments, there has been an increase in overpayments. Not all erroneous payments are the fault of claimants nor are they the result of intentional concealment. Most claimants operate in good faith and play by the rules. There are, however, some who view the UI system as an opportunity for financial gain and act dishonestly to receive UI benefits for which they are not eligible.

Overpayment Detection and Investigation in Wisconsin

Most overpayments occur when a UI recipient collects benefits while receiving wages. Claimants who continue to work or return to work after filing a claim but either underreport, or altogether fail to report their weekly earnings, are responsible for nearly half of the established overpayments. This is more likely to happen when a recipient finds himself or herself under financial stress. The national recession has put many people in that category.

Reducing overpayments is an important focus for Wisconsin, other states, and the federal government. We have twenty-one employees dedicated to detection and investigation, an increase of ten in the last six months. Reducing and recovering overpayments and tax delinquencies are important for the integrity of our program and for the solvency of our trust fund. Wisconsin utilizes a variety of methods to discern the accuracy of UI payments and to detect erroneous payments. Chief among these are:

1. Interagency/federal cross-match data exchanges including:
 - Quarterly Wage Record reports;
 - Verification of weekly earnings for partial benefits;
 - State and national directories of new hires;
 - Systematic Alien Verification for Entitlements (SAVE) program to verify the employment authorization of undocumented workers;
 - Social Security Administration;
 - Wisconsin Department of Corrections;
2. Tips from employers or the public; and,
3. Claimant interviews and self reporting.

We utilize Social Security Administration (SSA) cross matches in two ways. First, we check the Social Security numbers on wage records to make sure that the numbers we receive from employers actually exist. Second, we use SSA data as a part of our cross match to determine whether recipients are incarcerated in local jails.

Similarly, we use Wisconsin Department of Corrections information to determine whether anyone receiving benefits is in the Wisconsin correctional system.

We utilize new hire data because it provides evidence of when a person is working—data that is more current than data from quarterly wage cross matches. The law requires employers to inform us of new hires within twenty days of their start date. Originally, this new hire data was collected to locate people who were not meeting their child support responsibilities, but it is very useful for UI purposes as well.

We check wages of those receiving partial benefits by seeking verification from both the employer and the claimant. When they are not consistent, we try to sort out the correct number. If for any reason partial wages are unreported, that can result in an overpayment when the information is compared later to quarterly wage records.

If the potential for an overpayment is identified, we initiate a verification process with requests for information from both the claimant and employer. When the staff confirms an overpayment, they send a "determination" to the claimant and the collection staff contacts the claimant to recover the payment.

Overpayment Collection in Wisconsin

The recovery of overpayments is important in promoting program compliance and restoring reserves. The states also collect overpayments that occur in the federal extension programs. Wisconsin and other states remit these recovered funds directly to the federal government. In effect, the states are the collection agents for the U.S. Treasury. The increase in the number of established overpayments, as shown in Tables 1 and 2, below, has seriously taxed the ability of the collection staff to maintain their historically high recovery rates.

In particular, Table 1 shows that state benefits to UI claimants more than doubled over the last three years, increasing from 0.9 billion in 2007 to \$2 billion in 2009. During this period, overpayments more than doubled from \$13.4 million to \$33.4 million, while overpayments collected increased by 96 percent to almost \$24 million.

Table 1: Non-Fraud Overpayment Recovery Rates - Regular UI

	2007	2008	2009
Total Regular UI Paid	\$0.9 billion	\$1.1 billion	\$2.0 billion
Total UI Non-Fraud Overpayment Dollars Established	\$13.4 million	\$14.7 million	\$33.4 million
Percent Non-Fraud	1.5 percent	1.4 percent	1.7 percent
Total UI Non-Fraud Overpayment Dollars Recovered	\$12.2 million	\$13.3 million	\$23.9 million

Table 2 presents similar statistics as Table 1, but for fraud-related overpayments. It shows that both overpayments and collections increased significantly between 2007 and 2009.

Table 2: Fraud Overpayment Recovery Rates - Regular UI

	2007	2008	2009
Total Regular UI Paid	\$0.9 billion	\$1.1 billion	\$2.0 billion
Total UI Fraud Overpayment Dollars Established	\$4.7 million	\$6.6 million	\$17.7 million
Percent Fraud	0.5 percent	0.6 percent	0.9 percent
Total UI Fraud Overpayment Dollars Recovered	\$4.4 million	\$4.9 million	\$7.1 million

Our department's Division of Unemployment Insurance currently has 16.5 staff responsible for the collection of benefit overpayments and tax delinquencies. We are also adding additional staff to meet the increase in collection volume. The collection team uses a new tax application, automated work flow and an interface with the Circuit Court Automation Program to docket and release judgments in 72 Wisconsin counties. Other tools include:

1. An automated interface for intercepting state tax refunds of those who were overpaid benefits;
2. An automated billing system for claimants and employers which transfers work to collection analyst for follow-up when appropriate;
3. The system automatically creates offsets of potential payments to claimants who have not repaid overpayments (in the long run, 78 percent of benefit overpayments are collected, many through the offset process);
4. Liens on private property provided for in Wisconsin statutes (e.g. car, boat, etc.);
5. Forfeitures of UI benefits, utilized to collect penalties for fraud. Wisconsin collects forfeitures through the benefit offset process; and
6. Penalties and interest for non-filing or late filing (employers only).

Reducing Worker Misclassification

Governor Doyle has recently signed legislation on misclassification that significantly expands the capability of my department to enforce our state's laws relating to proper classification of employees. We will have for the first time the ability to issue "stop-work" orders at construction sites operated by contractors and subcontractors who are unable to demonstrate compliance with Wisconsin's laws relating to UI, Worker's Compensation, and wage and hour reporting. The proposed federal Program Integrity Act of 2010 will be an excellent complement to the Wisconsin law.

SIDES: A STRATEGY FOR PREVENTING OVERPAYMENTS

Most state activities relating to overpayments focus on detection and collection. The State Information Data Exchange System (SIDES) is a multi-state effort that will help *prevent* overpayments from occurring. Utilization of SIDES will serve to increase the accuracy of UI payments and prevent overpayments from occurring.

Payment errors related to job separation issues make up a substantial source of UI overpayments. It is the second leading cause of UI overpayments which account for \$1.2 billion or 19.6 percent of UI overpayments. Wisconsin leads a consortium of six states including Colorado, Georgia, New Jersey, Ohio and Utah that is working to reduce overpayments through improved technology. At least twelve more states are expected to join the SIDES system in the next two years, including Arizona, Connecticut, Rhode Island, Iowa, Kansas, Maryland, Michigan, North Carolina, New York, Texas, Mississippi, and Virginia. When fully operational, this system will improve UI timeliness, provide significant cost savings to states, dramatically improve the accuracy of information, and reduce improper benefit payments.

Initially this system is being used to transmit UI separation information (requests and replies) over the Internet between UI agencies and different size employers. Separation requests to large and multi state employers or third party administrators are transmitted from the state through the SIDES central broker as a batch web service to the participating employers.

Employers, in turn, respond to these separation requests over the Internet through the SIDES central broker back to the states. In addition, a SIDES Employer Website was created to handle much smaller numbers of separation requests and responses primarily dealing with small employers. States transmit the separation requests to the SIDES Employer Website and employers go online to this website, enter identification credentials and respond individually to these requests.

Other types of transactions such as wage verification between states and employers will be added to SIDES to reduce other areas of Unemployment Insurance improper payments. When fully operational, this system will improve UI timeliness, provide significant cost savings to states, dramatically improve the accuracy of information, and reduce improper benefit payments and appeals reversals.

INNOVATIONS IN OTHER STATES

Wisconsin is not the only state pursuing aggressive collection efforts. Many other states do an excellent job identifying and collecting overpayments. For example, the state of Washington has very sophisticated methodologies for locating and contacting claimants with overpayments, as well as employers who are delinquent in paying their UI taxes. Washington has also developed an on-line payment system to facilitate restitution of overpayments.

Also, two state consortia have organized themselves into an effort to modernize their UI systems. The first consortium includes Arizona, Wyoming, Idaho and North Dakota; the second consortium includes North Carolina, South Carolina, Georgia and Tennessee. These initiatives are aimed at developing the requirements for a common UI information technology system and determining the feasibility of building those systems.

U.S. DEPARTMENT OF LABOR'S INTEGRITY PROPOSAL

The steps that states like Wisconsin have taken to reduce overpayments and promote program integrity have been important. But additional steps at the federal level will help ensure the nation continues to increase program integrity and maintain a strong UI system. In particular, Wisconsin strongly endorses the Unemployment Compensation Program Integrity Act of 2010, proposed by the U.S. Department of Labor.

The Act would make important changes to the federal-state UI system that would:

- permit states to utilize five percent of the receipts from overpayment recoveries to fund additional program integrity and worker misclassification resources;
- require increased penalties for benefit fraud; and,
- reduce overpayments that otherwise occur because of incomplete information from employers and claimants—a provision that is similar to one passed in Wisconsin in 2005.

A CONCLUDING NOTE

I am very appreciative of the opportunity to come before you today. The topic of reducing overpayments and increasing quality in UI is compelling and timely. I want to take this opportunity to urge the Committee to address soon some related topics crucial to the future health and stability of the UI program. They include:

- The reform of the federal extended benefits program. The extended benefits programs have been crucial to providing help during this recession to people in desperate need. However, the stop and start nature of legislative action has been a source of concern to claimants and a significant challenge for the states. We would like to see all extended benefit triggers set in advance so there is some predictability as to when extended benefits are payable. There is a case for eliminating Extended Benefits (EB) and establishing a predictable Emergency Unemployment Compensation (EUC) program that would have some state-based triggers and some national triggers. Essentially, the argument would be for an EUC program with predictable tiers and a single set of rules. This would permit the states to plan and program their systems to provide benefits promptly once the triggers are reached.
- A national conversation about the UI program and its modernization. The recession has been a difficult test of the national UI system. These hard times have underscored the need to look deeply at the program and the way it is administered. As the recession abates, we should have a national conversation about the UI program and what is needed to improve it, especially given that the workforce is changing and the program should be updated to reflect those changes.
- The states and the federal government need to work together to restore the solvency of the UI system. Wisconsin is one of thirty-three states that are currently paying regular UI benefits with money borrowed from the federal government. This is not sustainable over the long-run or the short-run. We face the important challenge of returning the UI system to fiscal soundness. In the meantime, it would be of great assistance to the states who are borrowing to have an extension of interest forgiveness through 2012.

- Re-employment services (RES) are a key component of Wisconsin's effort to reduce UI expenditures and strengthen our Reserve Fund. This is a cost effective strategy that helps workers find a job while reducing the costs to state UI Reserve Funds. Continued federal support of these efforts is crucial.
- Wisconsin also supports the Department of Labor's initiative to reduce misclassification by increased enforcement activity at the federal level and support for state level misclassification initiatives.

Thank you very much for the opportunity to appear before you. I look forward to answering your questions.