

Congress of the United States
Washington, DC 20515

August 31, 2021

The Honorable Gene Dodaro
Comptroller General of the United States
Government Accountability Office
441 G Street, NW
Washington, D.C. 20548

Mr. Dodaro:

The amount of state and federal spending on unemployment insurance programs in response to the COVID-19 pandemic is unprecedented. A federal response on an unprecedented scale was necessary when the economy was shut down following the onset of the pandemic to support hard-working Americans who, through no fault of their own, were displaced from work.

Unemployment fraud takes resources away from American workers who deserve assistance and puts those resources directly in the pockets of fraudsters. Given that roughly a year-and-a-half has elapsed since the pandemic's onset and given what appears to be the largest amount of unemployment fraud in history since March of last year, it is concerning that some seem almost indifferent to the massive fraud that has occurred.

Fraud in COVID unemployment programs appears to be the greatest theft of American tax dollars in our nation's history, estimated at anywhere from \$89 billion to \$400 billion. Yet, there is currently no federal effort in place to formally evaluate and estimate the true scope and severity of COVID unemployment fraud nationwide. We request that GAO, as part of its mission and ongoing work to reduce improper payments and safeguard federal funds, investigate, and provide a national estimate of funds lost because of fraudulent activity.

It is concerning that responsibility for determining how much fraud has occurred lies scattered throughout a web of bureaucracies. The scattering of responsibilities suggests that Congress will be ill equipped to have adequate information to assess future unemployment insurance responses to large economic shocks; and, at the same time, ensure they are not plagued by gaping security holes that allow fraudsters an open window to use to unlawfully obtained taxpayer funds.

As of August 21, 2021, federal spending on enhanced unemployment insurance (UI) benefits authorized under the Coronavirus Aid, Relief, and Economic Security (CARES) Act, exceeded \$644 billion.¹ That amount does not include state spending on regular unemployment benefits which, from the 2nd quarter of 2020 through the 1st quarter of 2021, exceeded \$149 billion.²

Unfortunately, fraud in COVID unemployment programs has been extensively documented and goes well beyond any pedestrian fraud or improper payments traditionally seen in federal programs. According to the Department of Justice, “Early investigation and analysis indicate that international organized criminal groups have targeted these funds by using stolen identities to file for UI benefits. Domestic fraudsters, ranging from identity thieves to prison inmates, have also committed UI fraud.”³ The Labor Department’s Inspector General and the Government Accountability Office have both issued repeated warnings about the vulnerability for abuse of CARES Act unemployment insurance programs.⁴⁵

The Department of Labor (DOL) Inspector General’s initial audit and investigation indicate improper payments could be at least \$89 billion, with a significant portion attributable to fraud.⁶ The Inspector General has also documented, in a recent quarterly investigation’s newsletter, numerous accounts of open unemployment insurance criminal fraud investigations involving millions of fraudulently stolen funds.⁷ Most recently, Axios published a report finding that unemployment fraud has reached an estimated \$400 billion- almost half of all pandemic unemployment spending.⁸ The Foundation for Government Accountability also published a report, concluding with an estimate of \$300 billion.⁹ These estimates vary widely and are not based on formal reviews or investigation.

DOL has no affirmative requirement under current law to report a national amount or estimate of improper payments, including fraud, in COVID UI programs. Unfortunately, DOL has not been adequately responsive to inquiries our offices have made, including lack of response to a written inquiry we made to the Secretary of the Department of Labor.

GAO has stated that estimating improper payments is a responsibility of federal agencies. Federal agencies are subject to the Improper Payments Elimination and Recovery Act and must report annually to the Office of Management and Budget (OMB) on improper payments for programs at high risk. Given that federal COVID unemployment programs are new, DOL is

¹ U.S. Department of Labor: https://oui.doleta.gov/unemploy/docs/cares_act_funding_state.html

² U.S. Department of Labor: https://oui.doleta.gov/unemploy/data_summary/DataSummTable.asp

³ U.S. Department of Justice: <https://www.justice.gov/opa/pr/justice-department-takes-action-against-covid-19-fraud>

⁴ U.S. Department of Labor, “DOL-OIG Oversight of the Unemployment Insurance program,” February 3, 2021; “Alert Memorandum: The Employment and Training Administration (ETA) Needs to Ensure State Workforce Agencies (SWA) Implement Effective Unemployment Insurance Program Fraud Controls for High Risk Areas,” February 22, 2021.

⁵ “COVID-19: Critical Vaccine Distribution, Supply Chain, Program Integrity, and other Challenges Require Focused Federal Attention,” Government Accountability Office, January 28, 2021. (GAO-21-265)

⁶ U.S. Department of Labor, Office of Inspector General: <https://www.oig.dol.gov/doloiguooversightwork.htm>

⁷ <https://www.oig.dol.gov/public/oignewsletter/DOL-OIG%20Investigations%20Newsletter%20Feb%20-March%202021.pdf>

⁸ <https://gop-waysandmeans.house.gov/brady-400-billion-in-stolen-unemployment-benefits-is-greatest-theft-of-american-tax-dollars-in-history/>

⁹ <https://thefga.org/press/unemployment-fraud-bonus-side-effect/>

charged with evaluating whether the program is susceptible to improper payments *after* a 12-month period and, if the risk exceeds 1.8%, shall provide an estimate of improper payments in such programs prospectively; that is, *moving forward*. That 12-month mark was March 2021. Therefore, this forward-looking requirement cannot be relied upon to capture the very period during which the height of spending and fraudulent activity occurred.

COVID unemployment fraud crosses multiple federal agency jurisdictions, including the Department of Justice and Internal Revenue Service (e.g., with respect to state-generated 1099-G forms), each of which have information pertaining to the amount of federal funds lost because of fraud in COVID UI programs. States also have no affirmative requirement to report the amount of unemployment fraud in federally funded COVID unemployment programs (through, for example, OMB's payment accuracy data reporting tool).

For these reasons, we request that GAO investigate the scope and severity of fraudulent activity in COVID unemployment insurance programs. Specifically, we request that GAO conduct a complementary, targeted review. For purposes of this request, federal funds include Pandemic Unemployment Assistance (PUA), Federal Pandemic Unemployment Compensation (FPUC), Pandemic Emergency Unemployment Compensation (PEUC), and Extended Benefits (EB). We request the review consist of (in order of priority):

1. Providing an informed, rough order of magnitude, estimate at the national level of the amount of potentially fraudulent payments in COVID unemployment programs covering the period of March 27, 2021 through September 6, 2021. We request that the analysis include identification of states that were most at-risk/targeted by criminals and the extent to which foreign actors or international crime rings played a role in unemployment fraud. In this effort, we request that GAO's review include consultation with:
 - a. The Department of Labor to obtain information and data they have, from states or otherwise, indicating the amount of unemployment fraud that could inform GAO's assessment of the national amount of unemployment fraud;
 - b. The Department of Labor's Inspector General to obtain information and data the agency may have, including information about resolved or ongoing investigations into fraud, to inform GAO's assessment of the amount of unemployment fraud;
 - c. The Department of Justice to provide an accounting and review of the number of criminal investigations, resolved and ongoing, nationally, that have been initiated related to unemployment fraud and the amount of federal funds involved, including gathering of information and data from:
 - i. The [National Unemployment Fraud Taskforce](#) (NUIFTF) to obtain any information the taskforce has collected to inform GAO's assessment of the national amount of unemployment fraud.
 - ii. The [COVID-19 Fraud Enforcement Taskforce](#). A multi-agency effort created to detect and disrupt COVID-19 related fraud.
 - d. The Internal Revenue Service to provide an accounting and review of the amount of income from unemployment benefits received by taxpayers, as reported by states using Tax Form 1099-G, that have been revised due to a taxpayer claim of identity theft. The IRS has issued [guidance](#) essentially allowing states to zero out

- unemployment benefits paid that were discovered to be a result of identity theft and fraudulent activity.¹⁰ This creates concern about the ability of Congress to know the actual amount of unemployment benefits lost to fraud.
- e. The Department of Homeland Security to obtain information and data they have regarding the amount of unemployment fraud resulting from the actions of [foreign actors](#) or information that otherwise can inform GAO's efforts to assess the national amount of unemployment fraud.
 - f. The Department of Homeland Security [Inspector General's office](#), to obtain information and data the agency has collected to inform GAO's assessment of the national amount of unemployment fraud.
 - g. State auditors, [state unemployment fraud taskforces](#), and state Attorney General's to obtain information and data on the amount of unemployment fraud identified by state officials to inform GAO's assessment of the amount of unemployment fraud nationally. For example, California's state auditor published a concerning assessment of improper payments and fraud in [January](#).
2. Reviewing policy, process, procedure, and practice in COVID unemployment programs with recommendations for reducing fraud risks, as a complementary assessment relative to ongoing fraud risk management work undertaken as part of GAO's CARES Act reporting responsibilities and broader UI transformation work. Specifically, we are interested in:
 - a. Policies in the PUA program that created fraud risks and/or made it challenging for states to implement the program with fidelity.
 - b. The extent to which flexibility of merit-staffing requirements allowed states to use contractors to handle additional workload and how that has impacted program integrity and fraud risk in PUA.
 - c. PUA initial and continuing claims data reporting issues, states' ability to accurately report PUA claims numbers, and how PUA data may have been impacted by the prevalence of fraud in the program.
 3. Assessing fraud risks and prevalence using qualitative and quantitative analysis, including building on work of the Department of Labor's Inspector General, using federal and state sources. We request this include providing recommendations to Congress on:
 - a. Actions that would improve the national estimate of fraud in COVID unemployment programs;
 - b. Actions that can be taken to recover federal unemployment funds lost due to fraud; and

¹⁰ Included in the IRS guidance is that: "Taxpayers who receive an incorrect Form 1099-G for unemployment benefits they did not receive should contact the issuing state agency to request a revised Form 1099-G showing they did not receive these benefits. Taxpayers who are unable to obtain a timely, corrected form from states should still file an accurate tax return, reporting only the income they received. A corrected Form 1099-G showing zero unemployment benefits in cases of identity theft will help taxpayers avoid being hit with an unexpected federal tax bill for unreported income."


- c. Ways to prevent such fraud from occurring, including in any future unemployment programs the Congress may enact in response to a national emergency or recession.

We request that GAO provide an estimated timeline for completion of this work. Specifically, given the timeliness and urgency of detecting and recovering fraudulent UI payments, we request a response to the first listed priority by December 31, 2021.

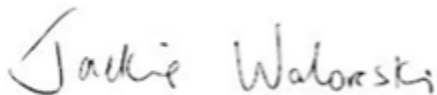
Sincerely,



Mike Crapo
Ranking Member
Senate Finance Committee



Kevin Brady
Ranking Member
Committee on Ways and Means



Jackie Walorski
Ranking Member
Worker and Family Support Subcommittee
Committee on Ways and Means