U.S. Department of Labor

Office of Inspector General—Office of Audit

REPORT TO THE EMPLOYMENT AND TRAINING ADMINISTRATION

COVID-19: UNEMPLOYMENT RELIEF FOR GOVERNMENTAL ENTITIES AND NONPROFIT ORGANIZATIONS SHOULD HAVE BEEN BETTER MANAGED

This report was prepared by Rocha & Company, PC under contract to the U.S. Department of Labor, Office of Inspector General, and, by acceptance, it becomes a report of the Office of Inspector General.

Carolyn R. Hantz

U.S. Department of Labor
Assistant Inspector General for Audit

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Audit

BRIEFLY…

COVID-19: UNEMPLOYMENT RELIEF FOR GOVERNMENTAL ENTITIES AND NONPROFIT ORGANIZATIONS SHOULD HAVE BEEN BETTER MANAGED

September 21, 2023

WHY OIG CONDUCTED THE AUDIT

The Emergency Unemployment Relief for Governmental Entities and Nonprofit Organizations program (EURGENO) was one of several new unemployment insurance (UI) programs created under the Coronavirus Aid, Relief, and Economic Security (CARES) Act to address the economic emergency resulting from the COVID-19 pandemic. The Employment and Training Administration (ETA) was responsible for ensuring implementation and program monitoring of EURGENO. Based on Office of Inspector General (OIG) audits of previous emergency UI program implementation and funding, we were concerned with ETA's ability to effectively and efficiently deploy UI funding under EURGENO, which totaled $6.3 billion.

WHAT OIG DID

We contracted with the independent certified public accounting firm of Rocha & Company, PC (Rocha) to conduct an audit to answer the following question:

> To what extent did ETA and states effectively execute EURGENO and ensure compliance with the related UI provisions of the CARES Act and subsequent legislation?

Rocha's audit procedures included assessing ETA's oversight, performing in-depth testing for 6 states, and surveying 47 other state workforce agencies.

WHAT OIG FOUND

Rocha found ETA and states did not effectively execute EURGENO or ensure full compliance with related provisions of the CARES Act and subsequent legislation. EURGENO was designed to mitigate the effects of the COVID-19 pandemic on employers that reimburse the states for eligible UI benefits paid (reimbursing employers). However, reimbursing employers experienced delays in receiving pandemic relief, and states received funding that needs to be returned to the federal government.

Federal guidance advised states to prioritize expediency; however, Rocha found the 6 states did not consistently provide refunds or credits to reimbursing employers in less than 30 days, with one state taking over a year. Also, 3 of 6 states issued bills to reimbursing employers that did not reflect EURGENO credits, resulting in reimbursing employers overpaying states. These issues occurred due to: state challenges in implementing new UI programs, legacy IT systems, ETA's insufficient monitoring, and untimely notifications to eligible employers of available EURGENO pandemic relief funds. As a result, pandemic relief intended to timely reimburse employers was delayed.

Rocha also found the 6 states received funding associated with ineligible benefit weeks, including weeks covered by another CARES Act provision. This resulted from ETA not providing sufficient guidance or monitoring reviews to ensure compliance with program requirements. Additionally, the states were provided funds based on claims later identified as fraudulent. As a result, states received millions in federal funding that they must return. ETA needs to perform a reconciliation to determine the exact amount of ineligible funds; however, Rocha identified at least $29 million in questioned costs in the 6 states alone.

WHAT OIG RECOMMENDED

Rocha made three recommendations to ETA to improve oversight of the UI program. ETA agreed with our recommendations.

READ THE FULL REPORT
http://www.oig.dol.gov/public/reports/oa/2023/19-23-010-03-315.pdf

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INSPECTOR GENERAL'S REPORT

Brent Parton
Principal Deputy Assistant Secretary
for Employment and Training
U.S. Department of Labor
200 Constitution Ave. NW
Washington, DC 20210

The U.S. Department of Labor, Office of Inspector General (OIG) contracted with the independent certified public accounting firm of Rocha & Company, PC (Rocha) to conduct a performance audit of the Employment and Training Administration (ETA) and states'[1] execution of the Emergency Unemployment Relief for Governmental Entities and Nonprofit Organizations program (EURGENO).[2]

The OIG monitored Rocha's work to ensure it met professional standards and contractual requirements. Rocha's independent audit was conducted in accordance with generally accepted government auditing standards.

Rocha was responsible for the evaluation and conclusions expressed in the report, while the OIG reviewed Rocha's report and supporting documentation.

[1] This report uses "state" or "state workforce agency" to refer to the administrative body that administers the unemployment insurance program within the state, district, or territory. For the 50 states, as well as the U.S. Virgin Islands, Puerto Rico, and the District of Columbia, that administrative body is a state workforce agency.
[2] In Unemployment Insurance Program Letter 18-20, ETA refers to EURGENO as "Emergency Unemployment Relief for State and Local Governmental Entities, Certain Nonprofit Organizations, and Federally-Recognized Indian Tribes."

PURPOSE

EURGENO was one of several new unemployment insurance (UI) programs created under the Coronavirus Aid, Relief, and Economic Security (CARES) Act to address the economic emergency resulting from the COVID-19 pandemic. Based on OIG audits of previous emergency UI program implementation and funding, we were concerned with ETA's ability to effectively and efficiently deploy UI funding under EURGENO, which totaled $6.3 billion.

Based on these concerns, we contracted with Rocha to conduct a performance audit to answer the following question:

> To what extent did ETA and states effectively execute EURGENO and ensure compliance with the related UI provisions of the CARES Act and subsequent legislation?

To answer this question, Rocha conducted a performance audit that covered the period March 13, 2020, to September 6, 2021—the end of the program. However, to determine the amount of EURGENO funding that was not returned to the federal government since the conclusion of the program, Rocha obtained states' EURGENO account balances as of February 1, 2023. The audit included procedures at both the ETA and state levels to determine compliance with program requirements. Rocha performed in-depth testing and analysis for six states—Hawaii, Illinois, Mississippi, Oklahoma, Vermont, and West Virginia—selected based on an OIG risk analysis. Rocha surveyed the remaining 47 state workforce agencies that entered into an agreement with ETA to participate in the program.

As of June 30, 2023, ETA transferred $6.3 billion to states' UI trust funds for EURGENO. Of the $6.3 billion, $505 million (8 percent) was provided to the six states tested.

RESULTS

Rocha found ETA and states did not effectively execute EURGENO or ensure full compliance with related UI provisions of the CARES Act and subsequent legislation. EURGENO was designed to mitigate the effects of the COVID-19 pandemic on employers that reimburse the states for eligible UI benefits paid (reimbursing employers). However, reimbursing employers experienced delays in receiving pandemic relief, and states received funding that needs to be returned to the federal government.

Guidance from the Office of Management and Budget advised states to prioritize expediency; however, Rocha found the six states did not consistently provide refunds or credits to reimbursing employers in less than 30 days, with one state taking over a year. States issue bills to reimbursing employers for eligible UI benefits paid for which they are responsible. However, three of six states issued bills that did not reflect EURGENO credits, resulting in reimbursing employers overpaying states. These issues occurred due to: (1) state challenges associated with implementing new UI programs, (2) legacy information technology systems, (3) ETA's insufficient monitoring, and (4) untimely notifications to eligible employers of available EURGENO pandemic relief funds. As a result, pandemic relief intended for reimbursing employers was delayed.

Rocha also found the six states received funding associated with ineligible benefit weeks, including weeks covered by another CARES Act provision. This resulted from ETA not providing sufficient guidance or monitoring reviews to ensure compliance with program requirements. Additionally, the states were provided funds based upon claims later identified as fraudulent. As a result, states received millions in federal funding that they are ineligible to retain. ETA needs to perform a reconciliation to determine the exact amount of ineligible funds; however, Rocha identified at least $29 million in questioned costs in the six states alone.

Carolyn R. Hantz
Assistant Inspector General for Audit

CONTRACTOR'S PERFORMANCE AUDIT REPORT

Rocha & Company, PC
Certified Public Accountants
and Management Consultants

Independent Auditors' Performance Audit Report on the Effectiveness of the Execution of the Emergency Unemployment Relief for Governmental Entities and Nonprofit Organizations Program and Compliance with the Coronavirus Aid, Relief, and Economic Security Act and Subsequent Legislation

Brent Parton
Principal Deputy Assistant Secretary
for Employment and Training
U.S. Department of Labor
200 Constitution Ave. NW
Washington, DC 20210

We were engaged by the U.S. Department of Labor (DOL), Office of Inspector General (OIG) to conduct a performance audit of the Employment and Training Administration (ETA) and states' execution of the Emergency Unemployment Relief for Governmental Entities and Nonprofit Organizations program (EURGENO) under the unemployment insurance (UI) provisions of the Coronavirus Aid, Relief, and Economic Security (CARES) Act and subsequent legislation. The program was created to mitigate the economic effects of the COVID-19 pandemic for governmental entities and nonprofit organizations that reimburse the states for eligible UI benefits paid (reimbursing employers). We conducted the audit to answer the following question:

> To what extent did ETA and states effectively execute EURGENO and ensure compliance with the related UI provisions of the CARES Act and subsequent legislation?

To answer this question, we performed procedures at the ETA and state levels to determine compliance with program requirements. For ETA, we submitted questions to UI officials and reviewed their responses and underlying support. The OIG selected six states—the States of Hawaii, Illinois, Mississippi, Oklahoma, Vermont, and West Virginia—for our in-depth analysis and testing based on a risk analysis including, but not limited to; funding amounts, claims information, information technology (IT) modernization projects, and ETA's published improper payment rates.[3] We also sent surveys to the remaining 47 state workforce agencies (SWA or state) that signed an agreement to participate in the program to obtain related key information about the program.

In addition, we examined state-level executive orders, agreements between ETA and states, correspondence between the states and reimbursing employers, billing statements issued to reimbursing employers, refunds provided by the states, as well as EURGENO funding activity between the Federal Unemployment Account (FUA) and the states. Our audit covered the period March 13, 2020, to September 6, 2021; however, to determine the amount of EURGENO funding that was not returned to the federal government since the conclusion of the program, we obtained EURGENO account balances as of February 1, 2023.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. Our scope, methodology, and criteria are detailed in Appendix A.

BACKGROUND

The UI program is a joint federal-state program that provides temporary benefits to workers who become unemployed through no fault of their own. Regular UI[4] payments are primarily[5] funded in one of two ways:

- Employers pay state UI taxes ahead of time based on taxable wages and layoff history; or

[3] Throughout this report we refer to the States of Hawaii, Illinois, Mississippi, Oklahoma, Vermont, and West Virginia as "the six states."
[4] Regular UI, also known as state UI, is a program administered by state workforce agencies in the United States to provide temporary financial assistance to eligible workers who have lost their jobs through no fault of their own.
[5] Three states—Alaska, New Jersey, and Pennsylvania—assess unemployment taxes on employees.

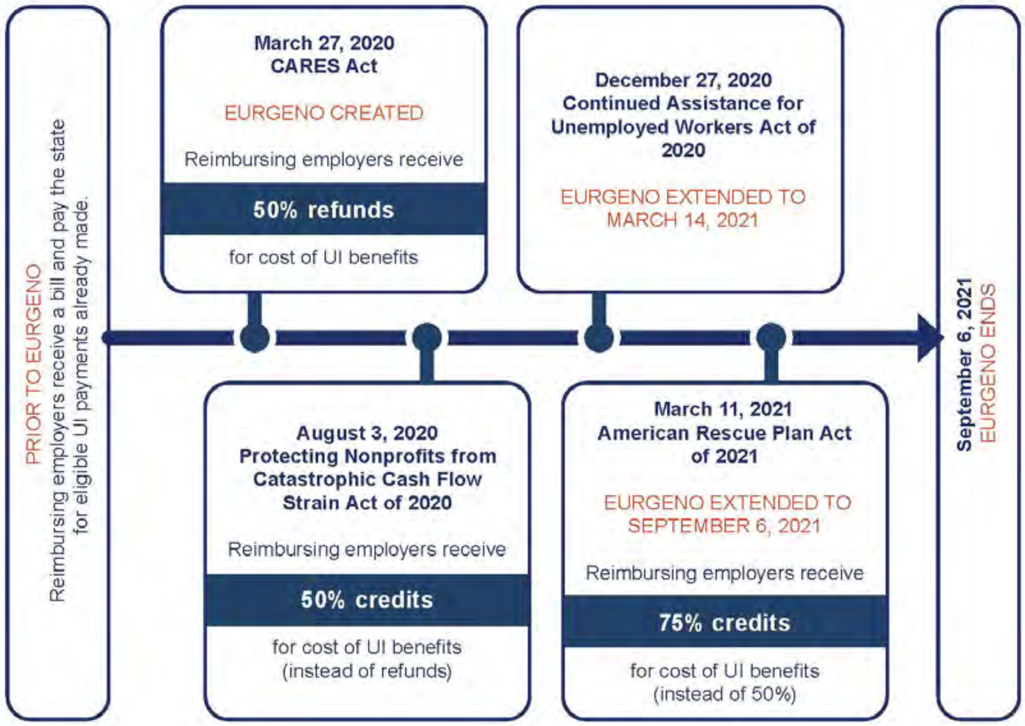
- Employers receive a bill and pay the state for eligible payments already made (reimbursing employers).[6]

In March 2020, the CARES Act § 2103 established EURGENO and authorized emergency unemployment relief for reimbursing employers including state and local governmental entities, certain nonprofit organizations, and federally-recognized Indian tribes.[7] Specifically, the CARES Act authorized ETA to provide funding for 50 percent[8] of the cost of UI benefits states paid to eligible reimbursing employer claimants.

Under the initial provisions of EURGENO, reimbursing employers were eligible to receive relief through refunds after they paid their bills in full. On August 3, 2020, the Protecting Nonprofits from Catastrophic Cash Flow Strain Act of 2020 was signed into law, which required states to provide reimbursing employers with 50 percent relief through credits[9] instead of issuing refunds after the reimbursing employers paid their bills in full. On March 11, 2021, the American Rescue Plan Act of 2021 was signed into law, which, as of April 10, 2021,[10] increased the relief percentage from 50 percent to 75 percent (see Figure 1).

[6] Section 3304(a)(6)(B) of the Federal Unemployment Tax Act grants nonprofit organizations described in Section 501(c)(3) of the Internal Revenue Code and state and local governmental entities, the right, under state law, to elect to make payments in lieu of contributions.
[7] A federally-recognized Indian tribe is an American Indian or Alaska Native tribal entity that is recognized as having a government-to-government relationship with the United States, with the responsibilities, powers, limitations, and obligations attached to that designation. For the purpose of this report, we will include federally-recognized Indian tribes with other governmental entities.
[8] States could opt to provide partial relief to governmental entities and nonprofit organizations under state law in excess of the 50 percent provided by the federal government. As noted on page 3 of UIPL No. 18-20, relief under state law that is above 50 percent of the amount owed will result in the state not being able to use a portion of the federal funds transferred.
[9] For the purpose of clarity in this report, payments made to reimbursing employers subsequent to the full payment of their bills will be termed “refunds.” Conversely, EURGENO relief provided by the state through the reduction of reimbursing employer bills will be designated as “credits.”
[10] According the UIPL 18-20, Change 2, the amount of emergency relief for weeks of unemployment beginning after March 31, 2021, increases from 50 percent of unemployment compensation paid to 75 percent paid. For states where the week of unemployment ends on a Saturday, this begins with the week ending on April 10, 2021. In states where the week of unemployment ends on a Sunday, this increased amount begins with the week ending on April 11, 2021.

Figure 1: EURGENO Lifecycle

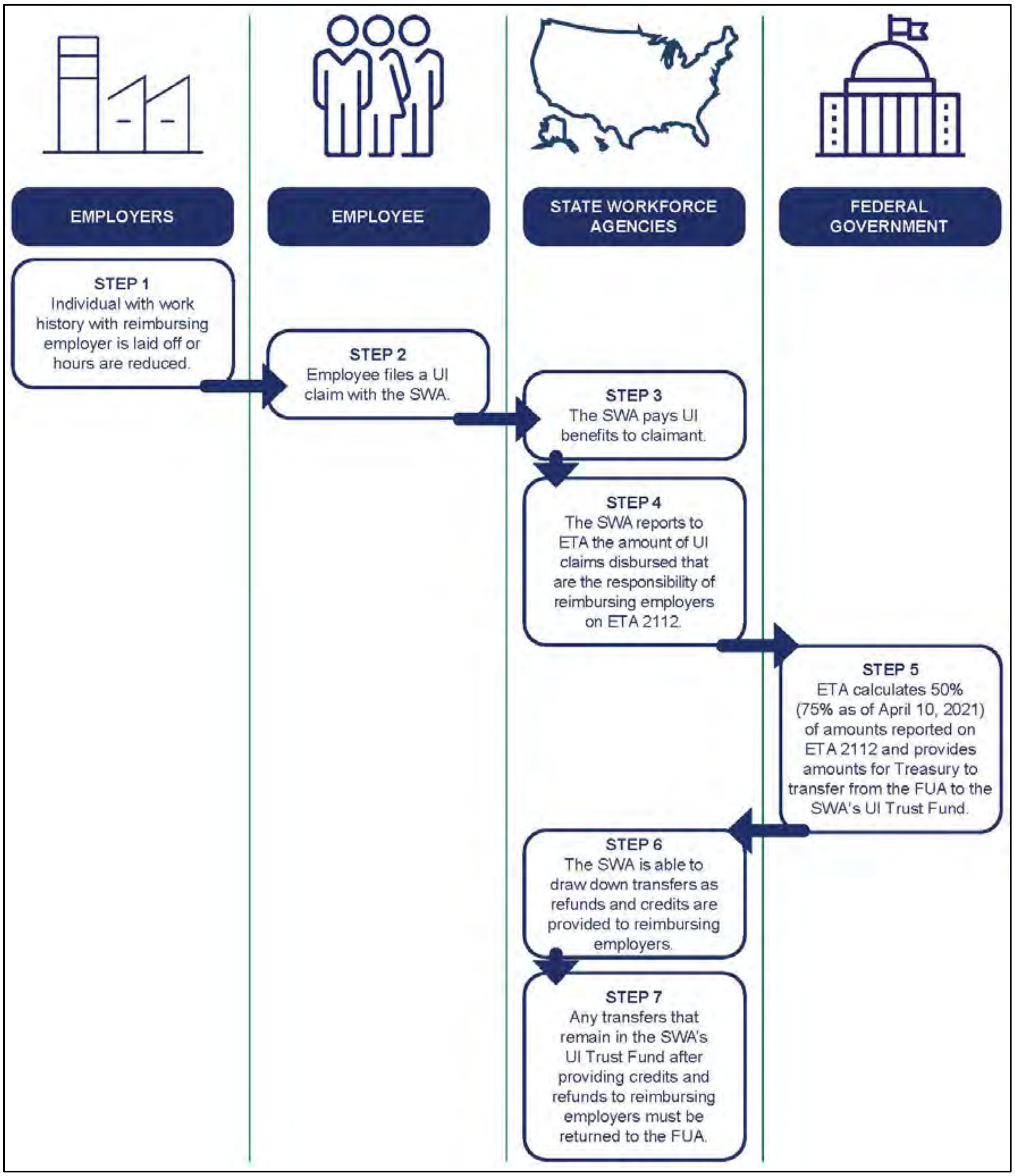


Source: Rocha analysis of pandemic-legislation

This report focuses on the performance of ETA and states' EURGENO operations during the audit period, which coincided with the COVID-19 pandemic. The pandemic had a profound impact on the UI program, presenting states with unprecedented challenges. According to ETA officials, these challenges included managing an unprecedented surge in claims volume, adapting to remote work environments, and implementing three new and significant temporary UI programs—Federal Pandemic Unemployment Compensation (FPUC), Pandemic Unemployment Assistance (PUA), and Pandemic Emergency Unemployment Compensation (PEUC).

As part of the execution of the program, states reported the amount of UI claims disbursed that are the responsibility of reimbursing employers to ETA using ETA Form 2112 (ETA 2112), which communicates UI Financial Transaction Summary data. ETA then calculated the 50 percent or 75 percent funding to be provided to the states (depending on the applicable time period) and instructed the U.S. Department of the Treasury (Treasury) to transfer that calculated funding amount from the FUA to the EURGENO account within the states' UI Trust Fund. States were then able to access the funding as refunds and credits were issued to reimbursing employers (see Figure 2).

Figure 2: EURGENO Funding and Refund/Credit Process



Source: Rocha graphical representation of EURGENO, including state, ETA, and Treasury procedures as well as flow of funding.

RESULTS

We found ETA and states did not effectively execute EURGENO or ensure full compliance with related provisions of the CARES Act and subsequent legislation. EURGENO was designed to mitigate the effects of the COVID-19 pandemic on employers that reimburse the states for eligible UI benefits paid (reimbursing employers). However, reimbursing employers experienced delays in receiving pandemic relief, waiting anywhere from a month to more than a year. Additionally, states received funding for ineligible weeks and amounts that were later determined to be ineligible.

Guidance from the Office of Management and Budget (OMB) advised states to prioritize expediency; however, we found the six states did not consistently provide refunds or credits to reimbursing employers in less than 30 days, with one state taking over a year. Under the program, states were responsible for issuing bills to reimbursing employers for eligible UI benefits paid for which they were responsible. However, three of six states issued bills that did not reflect EURGENO credits, resulting in reimbursing employers overpaying states. These issues occurred due to: (1) state challenges associated with implementing new UI programs, (2) legacy IT systems, (3) ETA's insufficient monitoring, and (4) untimely notifications to eligible employers of available EURGENO pandemic relief funds. As a result, pandemic relief intended for reimbursing employers was delayed.

We also found the six states received funding associated with ineligible benefit weeks, including weeks covered by another CARES Act provision. This resulted from ETA not providing sufficient guidance or monitoring reviews to ensure compliance with program requirements. Additionally, the states were provided funds based upon claims later identified as fraudulent. As a result, states received millions in federal funding that they are ineligible to retain. ETA needs to perform a reconciliation to determine the exact amount of ineligible funds; however, we identified at least $29 million in questioned costs in the six states alone.

INEFFECTIVE PROGRAM EXECUTION LED TO DELAYS IN RELIEF FOR REIMBURSING EMPLOYERS

On April 10, 2020, OMB issued Memorandum 20-21,[11] urging agencies to prioritize the speed of the payment process for pandemic relief funds, while balancing the need for program integrity. However, we found the six states tested did not always provide timely relief to reimbursing employers. Specifically, the states did not consistently issue refunds or credits to reimbursing employers in less than 30 days, with some relief taking over a year. Additionally, three of the six states did not adjust reimbursing employer billing statements to reflect EURGENO credits, which resulted in reimbursing employers overpaying states. As a result, reimbursing employers were delayed in receiving pandemic relief as intended by the CARES Act and subsequent legislation.

REFUNDS OR CREDITS WERE NOT TIMELY PROVIDED TO REIMBURSING EMPLOYERS

OMB Memorandum 20-21 reminded agencies of the flexibilities announced in prior OMB memoranda, emphasizing that "time is of the essence, and the Administration is committed to the rapid delivery of these funds to the COVID-19 relief and response efforts." Further, OMB Memorandum 20-21 directs agencies to "rapidly issue awards and fund programs to meet crucial needs."

On April 27, 2020, in accordance with the CARES Act, ETA issued Unemployment Insurance Program Letter (UIPL) 18-20, which specified that employers must "pay their bill in full" before refunds could be processed. A later legislative change to the program provided more immediate relief as states were required to reduce employer bills using credits instead of providing refunds.[12]

Neither the CARES Act nor ETA provided requirements or recommendations establishing timeliness standards for states to provide refunds or credits to reimbursing employers for EURGENO. However, the inherent nature of an emergency UI program would suggest relief should be provided quickly.

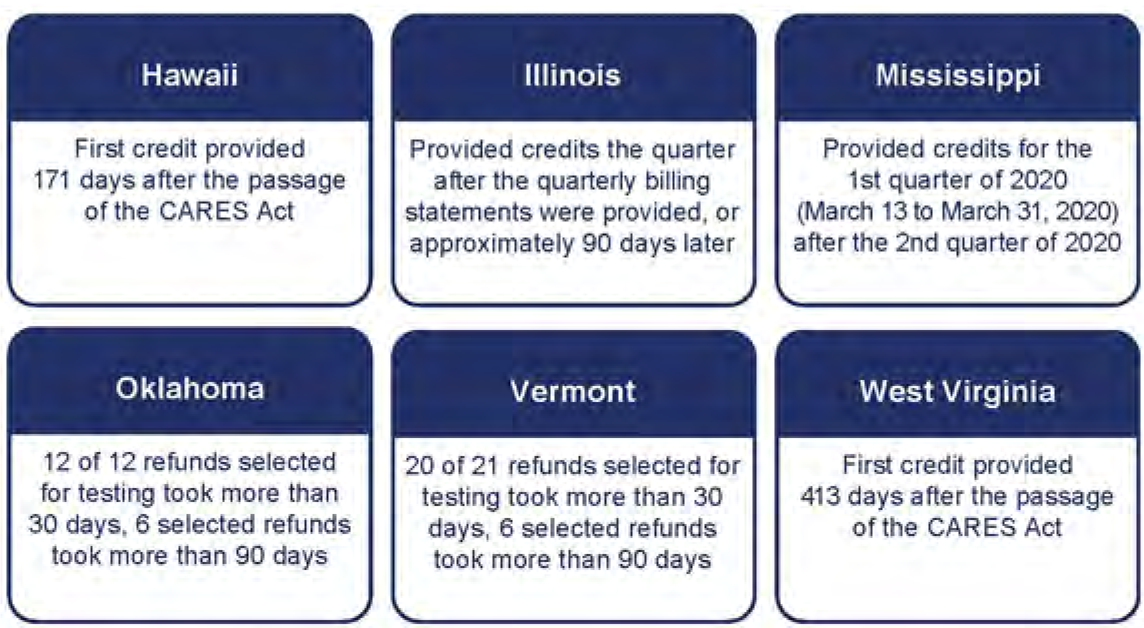
[11] OMB, Implementation Guidance for Supplemental Funding Provided in Response to the Coronavirus Disease 2019, M-20-21 (April 10, 2020), available at: https://www.whitehouse.gov/wp-content/uploads/2020/04/Implementation-Guidance-for-Supplemental-Funding-Provided-in-Response.pdf

[12] Protecting Nonprofits from Catastrophic Cash Flow Strain Act of 2020 was signed into law on August 3, 2020. ETA provided guidance to states on the change to the program on August 12, 2020, through UIPL 18-20, Change 1.

To provide context, as to the performance of states, we applied a 30-day standard to define timeliness, since 30 days is regularly used in relation to reimbursing employers. Specifically, states are required to submit ETA 2112 monthly, and four of the six states (67 percent) required reimbursing employers to submit payments for eligible UI benefits paid within 30 days. In addition, OMB Memorandum 20-21 addressed timely payments to businesses by requiring monthly reporting of “large covered funds” from the CARES Act to non-federal entities, setting a 30-day reporting standard at both state and federal levels.

Based on the 30-day standard, the six states tested did not always timely provide refunds or credits to reimbursing employers. Of the six states, only Oklahoma and Vermont began to institute the process of issuing refunds before August 3, 2020, when the program was modified to require states to issue credits instead of refunds. The other four states that only issued credits did not always do so timely, particularly in the early stages of the program (see Figure 3 for details on relief delays by state).

Figure 3: EURGENO Relief Delays by State



Source: Generated based on Rocha analysis of state EURGENO data

Out of the 43 refunds we examined, only one was processed within 30 days. Further, reimbursing employers experienced significant delays in receiving credits from EURGENO.

REIMBURSING EMPLOYERS BILLING STATEMENTS WERE NOT ADJUSTED FOR EURGENO CREDITS

We found that three states, Illinois, Vermont, and West Virginia, issued billing statements to reimbursing employers that were not adjusted for EURGENO credits (see Figure 4 for details on unadjusted billing statement effects).

Figure 4: Unadjusted Billing Statement Effects

Illinois	Vermont	West Virginia
Reimbursing employers overpaid $5,147,845 (19 percent) of sampled billing statements for the 2nd quarter of 2020	For the $15,659,949 in total billings for the 3rd quarter of 2020, reimbursing employers overpaid their total billing statements by $756,699 (5 percent)	Reimbursing employers overpaid $1,288,046 of $3,218,393 (40 percent) sampled billing statements for the 3rd and 4th quarters of 2020

Source: Generated based on Rocha analysis of state EURGENO data

The State of Illinois did not implement EURGENO until November 6, 2020. As a result, billing statements were issued to reimbursing employers without reflecting EURGENO credits, causing overpayments to be made to the state. The State of Vermont included notification to reimbursing employers of EURGENO credits with its billing statements. However, due to IT limitations, Vermont could not adjust the actual billing statements to reflect the credits. As a result, reimbursing employers submitted full payments without EURGENO credits applied, which caused reimbursing employers to overpay the state. Additionally, the State of West Virginia did not adjust billing statements for EURGENO credits and did not provide notification of EURGENO credits with billing statements until April 2021, when the state began to implement the program.

DELAYS IN PROVIDING REFUNDS AND CREDITS HAD SEVERAL COMMON CAUSES

While states were able to implement EURGENO, and ETA was able to offer guidance, this was not without delay in relief provided. We attribute the delays that reimbursing employers experienced in receiving intended pandemic relief to four common causes:

1. state challenges associated with implementing new UI programs,
2. programming difficulties associated with legacy IT systems,
3. insufficient ETA monitoring controls over the program, and
4. untimely notification to reimbursing employers of EURGENO and the available pandemic relief funds the program provided.

More information on each cause follows.

STATE CHALLENGES ASSOCIATED WITH IMPLEMENTING NEW UI PROGRAMS

According to ETA and state officials, the performance of the EURGENO program was significantly affected by difficulties associated with establishing EURGENO and other UI programs related to the pandemic, including the high volume of UI claims.

After the onset of the pandemic in early 2020, there was a drastic increase in unemployment compensation claims in the United States. Within a span of 2 to 3 weeks, initial claims surged to 10 times the pre-pandemic levels, overwhelming the capacity of state systems. By August 15, 2020, a period of 5 months, DOL recorded 57.4 million initial claims; the largest increase since DOL started tracking UI data in 1967. As a result, state officials reported that their primary focus was providing assistance to individuals who had become unemployed due to the pandemic, which required increased workload for UI staff members to assist claimants.

Furthermore, EURGENO was a new program that was introduced without an implementation period. ETA officials stated, for comparison, a swift rollout of a new government benefit program, including the policy, product, and operations, would require a timeframe of 30 to 48 months.[13] As a result, challenges with the program had to be worked out in real-time. This was all accomplished while states were navigating a 10-fold claims volume increase.

Additionally, ETA and state officials stated that they had other crucial obligations to simultaneously fulfill, including processing claims and managing three key pandemic-related programs: FPUC, PUA, and PEUC. Collectively, these programs provided approximately $664.5 billion in funding, compared to $6.3 billion for EURGENO.

[13] COVID-19: States Struggled to Implement Cares Act Unemployment Insurance Programs, Report No. 19-21-004-03-315 (May 28, 2021), https://www.oig.dol.gov/public/reports/oa/2021/19-21-004-03-315.pdf

PROGRAMMING DIFFICULTY ASSOCIATED WITH LEGACY IT SYSTEMS

Our audit found that existing IT systems for the six states tested could not be easily modified to handle the execution of EURGENO.

For example, the States of Vermont and West Virginia could not modify their existing legacy IT systems and had to heavily rely on spreadsheets to calculate refunds or credits. Officials from the State of Vermont specified, “because of the legacy nature of the state’s UI mainframe system, we were not in a sufficient [IT] state to adequately administer this program. Due to that fact, most of the work has been done manually and through manual tracking of information.”

Further, Oklahoma’s and Illinois’ UI IT systems were unable to make adjustments necessary to efficiently operate EURGENO. Specifically, the State of Oklahoma’s UI IT system required extensive programming adjustments to provide reimbursing employers refunds. Oklahoma’s UI IT system required the IT department to program an additional report for each governmental entity and nonprofit organization. Each report then had to be reviewed and any corrections required the IT department to perform additional programming.[14] Illinois’ UI IT system could not be modified to reflect current EURGENO credits on the current quarter reimbursing employer bill. To inform reimbursing employers of pending credits, Illinois included the statement, “DO NOT Protest Amounts Due OR Pay Amounts Due Directly or Indirectly Related to COVID-19” on reimbursing employers billing statements.[15]

Additionally, the States of Hawaii, Oklahoma, and Mississippi reported significant delays in programming as there were limited IT resources available to handle the demands of EURGENO, due to the implementation of all the other UI programs.

INSUFFICIENT ETA MONITORING CONTROLS

ETA did not sufficiently monitor the implementation of EURGENO to ensure states were providing refunds and credits timely. Specifically, the six states indicated that ETA did not conduct a compliance review for EURGENO. Additionally, 36 surveyed[16] states responded that there were no ETA monitoring reviews conducted for EURGENO.

[14] In Oklahoma, additional reports were not needed after the implementation of UIPL 18-20, Change 1, as credits were able to be reflected as a reduction to the billing statement.
[15] Beginning with the 3rd quarter 2020 billing cycle.
[16] We sent surveys to 47 states. However, 11 states did not respond.

Further, ETA did not establish controls to validate the amounts and eligibility of claims paid that were reported by the states on ETA 2112. ETA also did not establish controls to determine the amount of refunds or credits being provided to reimbursing employers. In response to the reported lack of ETA monitoring, ETA officials reported:

> ETA staff had numerous high priority responsibilities and expectations to address during the pandemic, including establishing guidance and monitoring tools for significant and major new Unemployment Insurance (UI) programs (Pandemic Unemployment Assistance, Pandemic Emergency Unemployment Compensation and Federal Pandemic Unemployment Compensation) and simply lacked capacity to provide the level of oversight that is identified by the OIG's contractor for the reimbursements provide[d] to state UI agencies for the amounts reported by states.

ETA encountered significant challenges during the implementation of pandemic-related programs. The situation was further complicated by the absence of a dedicated program development period in the CARES Act, which would have allowed ETA to effectively coordinate guidance and operations. Nevertheless, if reviews and controls for EURGENO were in place, ETA would have been able to intervene to improve the delivery of EURGENO relief to reimbursing employers.

UNTIMELY NOTIFICATION TO REIMBURSING EMPLOYERS

Reimbursing employers received untimely notifications regarding EURGENO relief benefits. Specifically, the six states took an average of approximately 198 days to send emails, letters, and online messages to formally notify reimbursing employers of EURGENO (see Table 1). As a result, reimbursing employers did not have sufficient information in a timely manner to request assistance from states or ETA to resolve any delays in receiving EURGENO relief. Further, states did not always provide refunds or credits ahead of notification of the relief benefits.

For example, the State of West Virginia did not formally notify reimbursing employers until April 2021. According to state officials, this led to inconsistencies in how employers treated billing statements. Specifically, since West Virginia did not provide notification to reimbursing employers until April 2021 or adjust billing statements to reflect EURGENO credits, some employers paid the full amount of bills issued by the state with no relief. State officials indicated other employers who became aware through other channels of the impending EURGENO credits likely withheld a portion of the payments in anticipation of receiving the relief benefits.

Table 1: Delay in State Notification to Reimbursing Employers

State	Date of Agreement	Date of Notification	Time Delay
Hawaii	March 27, 2020	September 14, 2020	171 Days
Illinois	March 28, 2020	August 10, 2020	135 Days
Mississippi	March 28, 2020	November 10, 2020	227 Days
Oklahoma	March 27, 2020	June 30, 2020	95 Days
Vermont	March 28, 2020	October 2, 2020	188 Days
West Virginia	March 28, 2020	April 1, 2021 – May 26, 2021	Approx. 1 year (369 to 424 Days)
		Average	**198 Days**

Source: Rocha analysis of state correspondence

Additionally, 32 of 36 (89 percent) surveyed states reported the average notification was sent approximately 4 months (128 days) after the date the state had signed the agreement with ETA. Among the 36 respondents, 8 indicated they provided notification after 180 days or more, and, in one case, the state did not provide either notification or credits for 549 days.

ETA officials reported that states were not required to notify reimbursing employers on the availability of pandemic relief funds from EURGENO by statute or through ETA guidance. Furthermore, ETA officials stated, “it is difficult to see how this might have delayed states reimbursing or crediting reimbursable employers under this provision.” Contrary to the statements made by ETA officials, our audit work revealed a clear correlation between delayed notifications and the subsequent benefit relief delays encountered by reimbursing employers.

DELAYS IN PROVIDING REFUNDS AND CREDITS UNDERMINED THE PURPOSE OF EURGENO

EURGENO was created to mitigate the economic effects of the COVID-19 pandemic on reimbursing employers. However, ETA and states were challenged in implementing the program. As a result, reimbursing employers did not always receive the timely pandemic relief the program was intended to provide. ETA must plan for future disasters to ensure federal UI programs timely assist employers and reduce implementation delays that negatively impact the effectiveness of emergency programs.

ETA ISSUED RELIEF FUNDS TO STATES FOR INELIGIBLE WEEKS AND CLAIMS SUBSEQUENTLY IDENTIFIED BY STATES AS FRAUDULENT

We found that states received EURGENO funding for ineligible weeks, as well as for UI benefit claims paid that the states subsequently identified as fraudulent (fraudulent charges) after funding was received.[17] The transfers for ineligible weeks were the result of ETA not providing sufficient guidance or monitoring reviews to ensure compliance with program requirements, while the funding for fraudulent charges occurred based on limitations in the program's design. As a result, states received millions in federal funding that they are ineligible to retain. ETA needs to perform a reconciliation to determine the exact amount of funds to be returned to the federal government. However, we determined the amount includes at least $29 million in questioned costs.

ETA PROVIDED EURGENO FUNDS FOR WEEKS OUTSIDE THE PROGRAM'S ELIGIBILITY PERIOD AND WEEKS ALREADY COVERED BY ANOTHER CARES ACT UI PROGRAM

The CARES Act and subsequent legislation authorized EURGENO pandemic relief for weeks of unemployment beginning on or after March 13, 2020, through weeks ending on or before September 6, 2021. However, ETA provided relief funds to the States of Illinois and West Virginia for ineligible weeks.

Specifically, the State of Illinois received approximately $5,687,000[18] of excess funding related to the first quarter of 2020. ETA 2112 is supposed to be filed on a monthly basis, yet Illinois filed and provided data on ETA 2112 on a quarterly basis. Therefore, when ETA provided prorated funding based upon the State of Illinois' March 2020 ETA 2112, the amounts reported included amounts for January and February 2020, which were not eligible for EURGENO funding.

Additionally, the State of West Virginia's basis for drawing down program funding incorrectly included approximately $289,000[19] of reimbursing employer credits

[17] Fraudulent charges were not identified until after ETA 2112 reports were filed and ETA provided funding.
[18] This excess funding amount was estimated using publicly available reports and funding provided to the state.
[19] This excess funding amount was estimated using publicly available reports and relief amounts provided to reimbursing employers.

that were provided for weeks that were outside the program's eligibility period. Specifically, due to legacy IT system issues, the State of West Virginia incorrectly provided credits to reimbursing employers for the entire month of September 2021, when only 6 days were eligible for funding under the program.

In addition to weeks paid outside the program's eligibility period, states obtained funding from ETA that did not conform to guidance provided by ETA in UIPL 18-20. Specifically, states received funding based upon first week claims covered by another CARES Act program, the Temporary Full Federal Funding of the First Week of Compensable Regular Unemployment (TFFF) program. On April 27, 2020, ETA issued UIPL 18-20, which stated:

> If a state receives full federal funding of the first week of regular compensation under Section 2105 of the CARES Act, those benefit payments also are not covered under Section 2103. This is because for the first compensable week for a claimant, there is no employer payment into the state unemployment fund to be reimbursed.

However, this guidance without specific reporting instructions was not sufficient to prevent states from inappropriately including first week claims paid under TFFF from total EURGENO claims paid on ETA 2112. Specifically, all six states inappropriately reported first week claims paid under the TFFF program on ETA 2112. The inclusion of these amounts inappropriately increased the amount of EURGENO funding transfers the states received. Of the six states, only three—the States of Hawaii, Mississippi, and West Virginia—were able to quantify the erroneously included amounts (see Table 2).

Table 2: Ineligible EURGENO Funding Transfers Received as a Result of Inappropriate Inclusion of TFFF First Week Amounts on ETA 2112

State	TFFF Amount Inappropriately Reported on ETA 2112	Transferred from FUA to State Trust Fund for TFFF Weeks	Total Transferred from FUA to State Trust Fund	Incorrect Percentage of Transfers to State
Hawaii	$3,375,787	$1,811,963	$39,563,623	5%
Mississippi	$2,873,284	$1,436,642	$24,342,316	6%
West Virginia	$3,288,245	$1,681,456	$20,459,881	8%
Total	**$9,537,316**	**$4,930,061**	**$84,365,820**	

Source: Rocha analysis

ETA stated they provided guidance to states on the handling of reporting for the TFFF program in UIPL 20-20. However, this guidance for the TFFF program, without monitoring, was not sufficient to prevent states from including ineligible weeks. For three of six tested states, the duplication in pandemic relief funds resulted in questioned costs of $4,930,061 (see Exhibit 1). However, since the issue appeared in all six states, we concluded this was a systemic issue, which likely impacted at least some of the other 47 SWAs.

RELIEF FOR FRAUDULENT CHARGES MUST BE RETURNED TO THE FEDERAL GOVERNMENT

The CARES Act required the amount of EURGENO funds transferred to the account of a state to be equal to 50 percent[20] of the amounts of compensation attributable under state law. However, states reported amounts on their ETA 2112 that the states and reimbursing employers subsequently identified as fraudulent, which is not compensable under federal law.

Specifically, the States of Mississippi, Oklahoma, and West Virginia removed debt associated with fraudulent charges from reimbursing employer bills. The three states ultimately did not bill reimbursing employers for fraudulent charges; therefore, the federal government transfers received under EURGENO related to those charges were not eligible for the states to access or retain. As a result, states must return funding that did not meet these CARES Act and ETA requirements.

We were unable to identify the total amount of EURGENO transfers that were ineligible; however, we identified three of the six states received a combined amount of $24,144,000[21] related to fraudulent charges that must be returned to the Treasury:

- The State of Mississippi paid approximately $1,670,000 in UI claims that were the responsibility of reimbursing employers, were reported by the state on ETA 2112, and were subsequently charged to reimbursing employers. After learning these charges were fraudulent, the state removed 100 percent of these amounts from reimbursing employer bills. Therefore, the State of Mississippi received at least $835,000[21] in EURGENO funding from the FUA, which must be returned to the federal government.

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[20] The American Rescue Plan Act of 2021 increased the relief percentage from 50 percent to 75 percent.

[21] To be conservative, we used the CARES Act relief percentage of 50 percent to calculate the amount of transfers associated with fraudulent charges.

- The State of Oklahoma paid approximately $45,868,000 in UI claims that were the responsibility of reimbursing employers, were reported by the state on ETA 2112, and were subsequently charged to reimbursing employers. After learning these charges were fraudulent, the state removed 100 percent of these amounts from reimbursing employer bills. Therefore, the State of Oklahoma received at least $22,934,000[21] in EURGENO funding from the FUA, which must be returned to the federal government.

- The State of West Virginia paid approximately $750,000 in UI claims that were the responsibility of reimbursing employers, were reported by the state on ETA 2112, and were subsequently charged to reimbursing employers. After learning these charges were fraudulent, the state removed 100 percent of these amounts from reimbursing employer bills. Therefore, the State of West Virginia received at least $375,000[21] in EURGENO funding from the FUA, which must be returned to the federal government.

States' receipt of EURGENO funding for the fraudulent charges removed from reimbursing employer bills resulted in questioned costs of $24,144,000 (see Exhibit 1). ETA officials stated they are planning a reconciliation process to determine the amount of funding that needs to be returned; however, states reported they were unaware of a pending reconciliation process or were not notified on how to close out the program.

INSUFFICIENT ETA CONTROLS RESULTED IN INELIGIBLE FUND TRANSFERS

ETA did not have sufficient controls in place to ensure integrity over EURGENO relief benefits. Specifically, ETA did not conduct monitoring reviews, and its reporting guidance to the states was insufficient to ensure compliance with program requirements.

For example, ETA did not require that its regional offices perform monitoring activity over EURGENO. In October 2020, ETA issued guidance, Employment and Training Order No. 1-21, to its National Office and regional offices for monitoring three key CARES Act programs (PUA, PEUC, FPUC). However, the order did not address EURGENO.

In response to lack of ETA monitoring, ETA officials stated:

> As reflected in the Fiscal Year (FY) 2021 Congressional Budget Justification (CBJ), funding levels for ETA allowed for a total of

> 168 Full-Time Equivalents (FTE) for Workforce Security (the funding for UI program-related staff in ETA's National and Regional Offices). By comparison in the FY 2006 CBJ, the funding level provided for 419 FTEs for UI program-related activities. The UI program entered the pandemic with significantly reduced staffing and resources and did not receive any additional funding for federal staff until the enactment of the American Rescue Plan Act in 2021…ETA was performing these responsibilities without additional staffing/funding...It is a very real factor in what could and could not be accomplished during this time.
>
> In addition, State agencies were also impacted by significant staffing shortages, the dramatic increase in program activity caused by the pandemic, and implementation [of the PUA, PEUC, and FPUC] programs. Recognizing that state operations were also stretched thin, the Office of Unemployment Insurance (OUI) made decisions to limit the additional burden of these programs on state operations that would further delay the benefit of the underlying provisions and lead to additional operational and implementation challenges for states.

Compounding this issue, ETA guidance did not provide sufficient detail to prevent states from inappropriately reporting first week UI compensation amounts on ETA 2112. UIPL 18-20 and subsequent changes provided guidance that EURGENO did not cover UI benefits that fall under programs funded 100 percent through other sections of the CARES Act. However, the UIPL only addressed this issue in its guidance section rather than within the reporting section. Specifically, the UIPL did not address the need to reduce amounts reported on ETA 2112 for first week UI compensation amounts covered under the TFFF program. This resulted in states receiving transfers of funds they were not entitled to retain.

In the past, ETA has provided such clarifying guidance. Specifically, the ETA 401 Handbook, issued July 2017, provides explicit instructions on backing out emergency UI benefits from other benefit program reporting. This set a precedent that ETA would offer similar guidance for future emergency programs on what should be backed out on the ETA 2112, such as for EURGENO. However, the ETA 401 Handbook did not address EURGENO, and UIPL 18-20 did not include sufficient reporting instructions addressing the specific requirements of the EURGENO program.

Further, none of the state officials interviewed were aware that first week UI compensation claims paid under TFFF should be backed out from total EURGENO claims paid on ETA 2112, and one state official stated they included all TFFF claims paid, believing it was required by DOL guidance. This led to the non-removal of TFFF claims paid across all six states, which indicates a pervasive issue and the need for clearer communication and guidance in the future.

Adequate guidance from ETA could have prevented the transfer (or expedited the return of transfers) of funds states were ineligible to retain. We were able to identify $29 million in questioned cost for the six tested states; however, the other 47 SWAs were likely impacted as well. As a result, there may be additional funds that must be returned to the federal government.

ETA AND STATES MUST RECONCILE EURGENO BALANCES AND RETURN FUNDS STATES ARE INELIGIBLE TO RETAIN

As of February 1, 2023, the six states we reviewed still had $50 million available of the $505 million in total EURGENO relief funds transferred to their UI Trust Funds. In addition, we obtained 26 survey responses (supported by states' Automated Standard Application for Payment "ASAP" reports) detailing that approximately $794 million of EURGENO relief funds remained within other states' UI Trust funds as of February 1, 2023. Specifically, 26 survey respondents reported that out of approximately $4 billion of program funding received, $794 million (20 percent of total funding) remained in these states' UI Trust Funds as of February 1, 2023.

In some instances, ETA may need to work with states to identify reimbursing employers that were eligible to receive EURGENO relief benefits but, due to IT system implementation difficulties, did not receive them. For example, during the course of our audit, we identified that the State of Vermont did not provide relief benefits to reimbursing employers for the partial month of March 2020.

ETA and states must reconcile remaining EURGENO account balances in states' UI Trust Funds to identify if any states kept funding they were ineligible to retain, or if any reimbursing employers did not receive intended relief (see Table 3).

Table 3: States' Remaining EURGENO Account Balances[22]

State	Total Transfers Received	Balance as of 2/1/2023	Balance as a Percent of Funds Received
Hawaii	$39,563,623	$2,159,402	5%
Illinois	$323,467,707	-	0%
Mississippi[23]	$24,342,316	$24,342,316	100%
Oklahoma	$69,291,110	$23,018,003	33%
Vermont	$28,200,573	$209,895	1%
West Virginia	$20,459,881	$387,861	2%
Six States Total	**$505,325,210**	**$50,117,477**	**10%**
Surveyed States Total	**$4,038,104,162**	**$794,009,025**	**20%**
Overall Total	**$4,543,429,372**	**$844,126,502**	**19%**

Source: This funding is available to states through the Automated Standard Application for Payments (ASAP).

Ultimately, outstanding balances not otherwise identified as needed for eligible relief must be deobligated, and the funding must be returned to the federal government in order for those funds to be put to better use.

CONCLUSION

Congress provided needed relief to reimbursing employers in a time of a national crisis. However, ETA and states did not effectively execute EURGENO or ensure its full compliance with UI provisions of the CARES Act and subsequent legislation. These issues occurred due to: (1) state challenges associated with implementing the new pandemic UI programs, (2) programming difficulties associated with legacy IT systems, (3) ETA's insufficient guidance and

[22] Remaining balances reflect federal funding amounts that are available to states for reimbursements. It does not necessarily indicate amounts to be provided to reimbursing employers.
[23] Mississippi has not drawn down any federal reimbursement for EURGENO, which is provided in a sub-account of their UI Trust Fund. Initially, Mississippi officials believed they would receive a full and final reimbursement based on state reported UI claims disbursed expenditures. However, the audit team made the state officials aware that the received funds were not intended to be the complete reimbursement, but rather an allocation to replenish the trust fund. Mississippi still needs to complete a reconciliation to determine the exact amount for reimbursement and request a drawdown once the process is complete.

monitoring, and (4) untimely notification to eligible employers regarding available program relief funding. As a result, pandemic relief intended for reimbursing employers was delayed and millions of pandemic relief funds must be returned to the federal government. ETA and states must recover the greatest practicable amount of pandemic relief funds states are ineligible to retain.

RECOMMENDATIONS

We recommend the Principal Deputy Assistant Secretary for Employment and Training:

1. Obtain evidence from the states that ensures all EURGENO refunds and credits to which reimbursing employers are entitled have been provided.

2. Work with states to reconcile remaining balances that factor in: (a) the actual EURGENO relief provided (or, in some cases, that still must be provided) to reimbursing employers and (b) excess EURGENO relief provided due to the impact of other unemployment insurance or CARES Act provisions or fraud.

3. Determine the proper disposition of excess funds and take necessary actions, including recovery of questioned costs.

SUMMARY OF ETA'S RESPONSE

In its response to the report, ETA concurred with the recommendations and outlined how they plan to address them. While ETA raised concerns about the applied 30-day standard, their concerns did not alter the conclusions of the report. We appreciate ETA's commitment to rectifying the issues identified for the EURGENO program, providing reconciliation guidance to states, and recovering any excess funds. ETA should ensure that reconciliation guidance includes questioned cost and excess funds, such as those identified for periods outside program eligibility including Illinois or West Virginia.

We appreciate the cooperation and courtesies ETA extended us during this audit.

Rocha & Company, PC

Rocha & Company, PC
Gaithersburg, MD
September 21, 2023

EXHIBIT 1: QUESTIONED COSTS

Table 4: Questioned EURGENO Costs[24]

Description	Amount
Questioned Cost for Funds that Need to be Returned due to States' Removal of Fraudulent Charges	$24,144,000
Questioned Cost for Funds Covered by other CARES Act Provisions—TFFF	$4,930,061
Total Questioned Costs	**$29,074,061**

Source: Table generated by the OIG based on Rocha analysis

[24] Recommendations with questioned costs identify costs that: (a) result from an alleged violation of a law, regulation, contract, grant, or other document or agreement governing the use of federal funds; (b) are not supported by adequate documentation (also known as an unsupported cost); or (c) appear unnecessary or unreasonable. See the Inspector General Act of 1978, as amended, Pub. L. 95-452, 5 U.S.C. § 405(a)(4).

APPENDIX A: SCOPE AND METHODOLOGY

SCOPE

This audit of EURGENO covered the period of March 13, 2020, to September 6, 2021. To determine the amount of federal funding that remained within the EURGENO account of the states' UI Trust Funds since the conclusion of the program, we obtained EURGENO account balances as of February 1, 2023.

The objective of the audit was to determine the extent to which ETA and states effectively executed EURGENO and ensured compliance with UI provisions of the CARES Act and its amendments. The overall objective was accomplished through the following sub-objectives:

- **Sub-Objective 1:** Obtain an understanding of EURGENO as well as the processes and controls in place at the ETA and state levels;
- **Sub-Objective 2:** Analyze EURGENO funding transfers from the federal government and ETA monitoring;
- **Sub-Objective 3:** Determine states that participated in EURGENO;
- **Sub-Objective 4:** Test reimbursements and credits provided to reimbursing employers as well as state drawdowns from the EURGENO account;
- **Sub-Objective 5:** Determine what deadlines and procedures ETA and states have in place to ensure unused EURGENO funds are transferred back to FUA; and
- **Sub-Objective 6:** Submit surveys to 47 SWAs to obtain key information about the program and assess compliance.

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

METHODOLOGY

This performance audit was conducted remotely. Of 53 SWAs with signed agreements to participate in EURGENO, we selected six states for in-depth testing: the States of Hawaii, Illinois, Mississippi, Oklahoma, West Virginia, and Vermont. For each of the six states, we used the stratified random sampling method to select a sample to test refunds and credits provided to reimbursing employers. Our sampling plan was designed under the assumption of moderate to high risk. This called for a design with 95 percent confidence and 7 percent relative precision of estimate. Populations were stratified and random samples were obtained. When the testing was complete, our statistician projected differences to the population using appropriate statistical estimation formulas, unless differences were clearly inconsequential.

In addition, we sent surveys to the remaining 47 SWAs to verify the following as they relate to EURGENO: participation, the extent of that participation, funding provided, and whether ETA had conducted monitoring reviews.

To answer our audit objective, we reviewed the CARES Act, ETA guidance, state agreements and state executive orders, program funding provided to the states, state reporting on ETA 2112, and EURGENO relief benefits provided by the states to reimbursing employers through refunds or credits.

DATA RELIABILITY

Methods of determining reliability were dependent upon availability of information at the state level. Primary methods of ensuring data reliability involved reconciliations of datasets to ETA 2112 as well as to amounts the states drew down from their EURGENO accounts through the Automated Standard Application for Payments system. Analytical comparisons were also used when assessing data reliability.

INTERNAL CONTROLS

A performance audit includes an understanding of internal controls considered significant to the audit objective and testing compliance with significant laws, regulations, and other requirements. In planning and performing our audit, we considered whether internal controls significant to the audit objective were properly designed and placed in operation. This included reviewing policies and procedures. We confirmed our understanding of these controls and procedures through interviews and the review and analysis of documentation. The objective of our audit was not to provide assurance of internal controls; therefore, we did not express an opinion on ETA's internal controls. Our consideration of internal controls for administering the EURGENO program would not necessarily disclose all matters that might be significant deficiencies. Because of the inherent limitation on internal controls, misstatements or noncompliance may occur and not be detected.

CRITERIA

- Public Law 116-136: Coronavirus Aid, Relief, and Economic Security (CARES) Act (March 27, 2020)
- Public 116-260: Consolidated Appropriations Act, 2021, specifically Division N, Title II, Subtitle A, the Continued Assistance for Unemployed Workers Act of 2020 (December 27, 2020)
- Public Law 116-151: Protecting Nonprofits from Catastrophic Cash Flow Strain Act of 2020 (August 5, 2020)
- American Rescue Plan Act of 2021 (Pub. L. 117-2), specifically Title IX, Subtitle A, Crisis Support for Unemployed Workers (March 11, 2021)
- Unemployment Insurance Program Letter 18-20: CARES Act of 2020 – Emergency Unemployment Relief for State and Local Governmental Entities, Certain Nonprofit Organizations, and Federally-Recognized Indian Tribes (April 27, 2020)
- Unemployment Insurance Program Letter 18-20, Change 1: Amendments to the CARES Act of 2020 – Emergency Unemployment Relief for State and Local Governmental Entities, Certain Nonprofit Organizations, and Federally-Recognized Indian Tribes (August 12, 2020)
- Unemployment Insurance Program Letter 18-20, Change 2: American Rescue Plan Act of 2021 (ARPA) – Amendments to the Emergency Unemployment Relief for State and Local Governmental Entities, Certain Nonprofit Organizations, and Federally-Recognized Indian Tribes (March 26, 2021)
- Office of Management and Budget Memorandum 20-21, Implementation Guidance for Supplemental Funding Provided in Response to the Coronavirus Disease 2019 (April 10, 2020)

PRIOR RELEVANT COVERAGE

During the last 3 years, the OIG has issued three reports of significant relevance to the subject of this report. Those reports are the following:

1. CARES Act: Initial Areas of Concern Regarding Implementation of Unemployment Insurance Provisions, Report No. 19-20-001-03-15 (April 21, 2020), available at: https://www.oig.dol.gov/public/reports/oa/2020/19-20-001-03-315.pdf;

2. COVID-19: More Can Be Done to Mitigate Risk to Unemployment Compensation under the CARES Act, Report No. 19-20-008-03-315 (August 7, 2020), available at: https://www.oig.dol.gov/public/reports/oa/2020/19-20-008-03-315.pdf; and

3. COVID-19: States Struggled to Implement Cares Act Unemployment Insurance Programs. Report No. 19-21-004-03-315 (May 28, 2021), available at: https://www.oig.dol.gov/public/reports/oa/2021/19-21-004-03-315.pdf.

APPENDIX B: ETA'S RESPONSE TO THE REPORT

U.S. Department of Labor

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

September 12, 2023

MEMORANDUM FOR: CAROLYN R. HANTZ
Assistant Inspector General for Audit

FROM: BRENT PARTON
Principal Deputy Assistant Secretary

SUBJECT: Response to Draft Report – *COVID-19: Unemployment Relief for Governmental Entities and Nonprofit Organizations Should Have Been Better Managed*, Report No. 19-23-XXX-03-315

The Department of Labor's (Department) Employment and Training Administration (ETA) appreciates the opportunity to respond to the above-referenced draft report from the Department's Office of the Inspector General (OIG) with respect to Emergency Unemployment Relief for Governmental Entities and Nonprofit Organizations (EURGENO), which was created in Section 2103 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020.

ETA appreciates the OIG's acknowledgement of the complexities of the situation that presented challenges to implementation. States were dealing with the largest increase in Unemployment Insurance (UI) claims volume in the history of the program and implementing three new temporary unemployment compensation (UC) programs at the time of EURGENO's enactment. Additionally, Congress made two different and significant structural changes to the program during its 18-month applicable period, including changing the relief mechanism from being a refund to employers to a credit for employers and changing the percentage of the relief amount from 50 percent to 75 percent.

ETA notes that the report references a 30-day timeliness standard and reports that it took states an average of four months to implement the EURGENO program. There was no statutory or regulatory timeliness standard for this program. The EURGENO program was created with the enactment of the CARES Act on March 27, 2020. However, the method of providing this relief as a credit rather than refund occurred nearly five months later through the enactment of the Protecting Nonprofits from Catastrophic Cash Flow Strain Act on August 8, 2020. Additionally, state law determines the schedule for reimbursements, and this schedule can vary from monthly, to quarterly, to annually depending on states' policies and practices.

ETA is committed to ensuring that states reconcile the actual EURGENO program funding they utilized and that all refunds and credits to which reimbursing employers are entitled have been provided. Furthermore, ETA will work with states to recover any excess funds.

Responses to the OIG Recommendations

Below, please find each of the OIG's recommendations contained in the draft report, followed by ETA's proposed action steps to address each of the OIG's recommendations.

Recommendation 1: Obtain evidence from the states that ensures all EURGENO refunds and credits to which reimbursing employers are entitled have been provided.

ETA Response: ETA concurs with this recommendation. ETA is in the process of developing specific reconciliation guidance that will address this recommendation. ETA expects the reconciliation process to be completed by the end of Fiscal Year (FY) 2024. The Administrator for the Office of Unemployment Insurance is responsible for the implementation of this recommendation.

Recommendation 2: Work with states to reconcile remaining balances that factor in: (a) the actual EURGENO relief provided (or, in some cases, that still must be provided) to reimbursing employers and (b) excess EURGENO relief provided due to the impact of other unemployment insurance or CARES Act provisions or fraud.

ETA Response: ETA concurs with this recommendation. ETA is in the process of developing specific guidance that will address this recommendation. ETA expects this process to be completed by the end of FY 2024. The Administrator for the Office of Unemployment Insurance is responsible for the implementation of this recommendation.

Recommendation 3: Determine the proper disposition of excess funds and take necessary actions, including recovery of questioned costs.

ETA Response: ETA concurs with this recommendation. ETA is in the process of developing specific guidance that will address this recommendation. The Office of Unemployment Insurance expects to complete the reconciliation process by the end of FY 2024 at which point ETA's Audit Resolution Unit in the Office of Grants Management will conduct the audit resolution process as outlined in the Department of Labor Manual Series 8, Chapter 500, to determine the amount of disallowed costs subject to repayment, if any. Once the audit resolution process is complete, ETA will provide the OIG with a copy of the final determinations and evidence of any repayment of disallowed costs, if any, in FY 2025. The Administrator for the Office of Unemployment Insurance and the Administrator for the Office of Grants Management are responsible for the implementation of this recommendation.

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