U.S. Department of Labor

Office of Inspector General—Office of Audit

REPORT TO THE OFFICE OF THE CHIEF FINANCIAL OFFICER

REPORTING OVER THE U.S. DEPARTMENT OF LABOR'S FY 2019 COMPLIANCE WITH THE IMPROPER PAYMENTS ELIMINATION AND RECOVERY ACT

KPMG LLP's report included herein was prepared under contract with the U.S. Department of Labor, Office of Inspector General, and by acceptance, it becomes a report of the Office of Inspector General.

Elliot P. Lewis
_____
Assistant Inspector General for Audit
U.S. Department of Labor

DATE ISSUED: MAY 15, 2020
REPORT NUMBER: 22-20-008-13-001

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INSPECTOR GENERAL'S REPORT

Mr. James Williams
Chief Financial Officer
U.S. Department of Labor
200 Constitution Ave, NW
Washington, DC 20210

The United States Department of Labor (DOL) Office of Inspector General (OIG) contracted with the independent certified public accounting firm of KPMG LLP (KPMG) to conduct a performance audit related to DOL's compliance with the Improper Payments Elimination and Recovery Act of 2010 (IPERA) for Fiscal Year (FY) 2019, which was the year ended September 30, 2019.

The objectives of KPMG's performance audit were to:

1. Evaluate DOL's compliance with the requirements contained in IPERA Section 3(a)(3) by determining if DOL:

   (1) Published an Agency Financial Report (AFR) or Performance and Accountability Report (PAR) for the most recent fiscal year and posted that report and any accompanying materials required by OMB on the agency website;

   (2) Conducted a program-specific risk assessment for each program or activity that conforms with Section 3321 of Title 31 U.S.C. (if required);

   (3) Published improper payment estimates for all programs and activities identified as susceptible to significant improper payments under its risk assessment (if required);

   (4) Published programmatic corrective action plans in the AFR or PAR (if required);

(5) Published, and is meeting, annual reduction targets for each program assessed to be at risk and estimated for improper payments (if required and applicable); and

(6) Reported a gross improper payment rate of less than 10 percent for each program and activity for which an improper payment estimate was obtained and published in the AFR or PAR.

2. Determine if DOL has implemented certain procedures to address the requirements of the Do Not Pay Initiative, as defined in OMB Circular A-123, Appendix C, *Requirements for Payment Integrity Improvement*; and

3. Determine the status of corrective action plans related to IPERA that were reported in DOL's FY 2018 AFR.

KPMG concluded DOL met 5 of the 6 requirements listed in IPERA Section 3(a)(3). For requirement 6, DOL reported a FY 2019 Unemployment Insurance program improper payment rate of 10.61 percent, which did not meet the IPERA requirement of "less than 10 percent." However, the Federal Employees Compensation Act program met this requirement with a reported improper payment rate of 2.44 percent.

KPMG determined DOL implemented certain procedures to address the requirements of the Do Not Pay Initiative, as defined in Office of Management and Budget Circular A-123, Appendix C, *Requirements for Payment Integrity Improvement*.

KPMG also determined that of the 16 corrective actions reported in DOL's FY 2018 AFR, 13 actions remained open, while 3 actions were closed and replaced with new corrective actions.

We appreciate the cooperation and courtesies the OCFO extended KPMG during this audit.

Elliot P. Lewis
Assistant Inspector General for Audit

PERFORMANCE AUDIT REPORT

KPMG

KPMG LLP
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Secretary and Inspector General
U.S. Department of Labor

This report presents the results of our work conducted to address the performance audit objectives related to the United States Department of Labor's (DOL) compliance with the requirements contained in the Improper Payments Elimination and Recovery Act of 2010, Section 3(a)(3) (IPERA); and certain requirements noted in Office of Management and Budget (OMB) A-123, Appendix C, *Requirements for Payment Integrity Improvement.* Our work was performed during the period of February 14, 2020, through May 5, 2020, and our results are as of May 15, 2020.

We conducted this performance audit in accordance with *Government Auditing Standards* issued by the Comptroller of the United States, and the American Institute of Certified Public Accountants' *Standards for Consulting Services. Government Auditing 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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The objectives of our audit were to:

1. Evaluate DOL's compliance with IPERA, by determining if DOL:

    (1) Published an Agency Financial Report (AFR) or Performance and Accountability Report (PAR) for the most recent fiscal year and posted that report and any accompanying materials required by OMB on the agency website.

    (2) Conducted a program-specific risk assessment for each program or activity that conforms with Section 3321 of Title 31 U.S.C. (if required).

    (3) Published improper payment estimates for all programs and activities identified as susceptible to significant improper payments under its risk assessment (if required).

    (4) Published programmatic corrective action plans in the AFR or PAR (if required).

(5) Published, and is meeting, annual reduction targets for each program assessed to be at risk and estimated for improper payments (if required and applicable).

(6) Reported a gross improper payment rate of less than 10 percent for each program and activity for which an improper payment estimate was obtained and published in the AFR or PAR.

2. Determine if DOL has implemented certain procedures to address the requirements of the Do Not Pay Initiative, as defined in OMB Circular A-123, Appendix C, *Requirements for Payment Integrity Improvement*; and

3. Determine the status of corrective action plans related to IPERA that were reported in DOL's FY 2018 AFR.

Based on the performance audit procedures conducted and the results obtained, we have met our audit objectives. Specifically, we evaluated DOL's compliance with IPERA and determined the following:

Requirements	Criteria Met?	
	Unemployment Insurance	Federal Employers Compensation Act
Published an Agency Financial Report (AFR) or Performance and Accountability Report (PAR) for the most recent fiscal year and posted that report and any accompanying materials required by OMB on the agency website.	YES	YES
Conducted a program-specific risk assessment for each program or activity that conforms with Section 3321 of Title 31 U.S.C. (if required).	YES	YES
Published improper payment estimates for all programs and activities identified as susceptible to significant improper payments under its risk assessment (if required).	YES	YES
Published programmatic corrective action plans in the AFR or PAR (if required).	YES	YES
Published, and is meeting, annual reduction targets for each program assessed to be at risk and estimated for improper payments (if required and applicable).	YES	YES
Reported a gross improper payment rate of less than 10 percent for each program and activity for which an improper payment estimate was obtained and published in the AFR or PAR.	NO	YES

In addition, based on our audit procedures and the results obtained, we determined that DOL implemented certain procedures to address the requirements of the Do Not Pay Initiative, as defined in OMB Circular A-123, Appendix C, *Requirements for Payment Integrity Improvement*.

We also reviewed the 16 corrective actions in DOL's FY 2018 AFR to determine their status. In summary, 13 corrective actions remained open and 3 actions were closed and replaced with new corrective actions. See Results and Conclusions section for additional details.

This performance audit did not constitute an audit of financial statements or an attestation level report as defined under *Government Auditing Standards* or AICPA professional standards. KPMG cautions that projecting the results of our evaluation to future periods is subject to the risks that controls may become inadequate because of changes in conditions or because compliance with controls may deteriorate.

This report is intended solely for the use of the DOL Secretary and Inspector General, Comptroller General, OMB, and relevant congressional committees; and is not intended to be and should not be relied upon by anyone other than these specified parties.

KPMG LLP

May 15, 2020

BACKGROUND

The Improper Payments Information Act of 2002 (IPIA) requires federal agencies to identify programs susceptible to significant improper payments, estimate the improper payments for those programs, and report on actions to reduce the improper payments in those programs. The OMB was required to prescribe guidance on implementation of these requirements.

The IPERA sought to have agencies take additional steps to reduce their improper payments. The act amended the IPIA by further refining the assessment of susceptible programs, the estimation of improper payments, and actions to reduce with additional criteria. In addition to these refinements, IPERA also required additional reporting on efforts to recover improper payments, including conducting recovery audits. Lastly, IPERA required an annual compliance report by the Inspectors General of agencies, and defined what constitutes compliance with the requirements.

The Improper Payments Elimination and Recovery Improvement Act of 2012 (IPERIA) amended IPIA once more. This most recent amendment required agencies to identify 'high-priority' federal programs for greater oversight and review; and report that information. It also established the Do Not Pay initiative to require agencies to review payments against designated databases before release of federal funds to prevent improper payments.

The DOL has established an agency-wide risk assessment process to assess its programs for susceptibility to significant improper payments. Each year, DOL assesses one third of all its programs to ensure each program is assessed at least once every three years. DOL's policies define significant improper payments as gross annual payments exceeding: (1) both 1.5 percent and $10 million of all program payments; or (2) $100 million regardless of percentage of program payments, which complies with the IPIA. Based on its risk assessment process, DOL identified two programs that were susceptible to significant improper payments in fiscal year (FY) 2019. The two programs identified are described below.

Unemployment Insurance (UI) Program

The UI program provides partial wage replacement for eligible unemployed workers who become unemployed through no fault of their own, and meet certain other eligibility requirements. Each state, the District of Columbia, and U.S. territories workforce agencies administer their own UI program under guidelines established by federal statute. In FY 2019, the UI program had total outlays of $26.9 billion and estimated improper payments of $2.9 billion.

The improper payments estimate was developed from the UI program's Benefit Accuracy Measurement (BAM) program. All 50 states, the District of Columbia, and the U.S. territories performed audits of a sample of benefit payments and reported those results into the BAM database. This data was then analyzed to determine the improper payment rate and cause. Each state reviewed a sample of approximately 270-650 claims, resulting in over 20,000 claims for the assessment.

Federal Employees Compensation Act (FECA) Program

The FECA program provides workers compensation coverage (i.e., wage-loss compensation and payment for medical treatment) to federal and postal workers for employment-related injuries and occupational diseases. DOL's Division of Federal Employees' Compensation manages the FECA program. In FY 2019, the FECA program had total outlays of $3.0 billion and estimated improper payments of $73.6 million.

The improper payments estimate was developed from a random sample of approximately 500 medical and 500 compensation payments from the FECA program. The payments were assessed against the program's criteria, and the supporting documentation maintained in the electronic case management system. Results from the sample were then extrapolated over the entire population to determine the improper payment rate.

As the UI and FECA programs were considered susceptible to significant improper payments, DOL produced statistical estimates of the improper payments as required by OMB and discussed above. DOL disclosed these programs along with the required related improper payment information in its FY 2019 AFR.

Do Not Pay Initiative (DNP)

DNP is a government-wide initiative to screen payment recipients before a grant, contract award, or payment is made. It requires agencies to ensure that a thorough review of available databases occurs prior to the release of federal funds to help verify eligibility and prevent certain improper payments. DOL executes the requirements of DNP consistent with guidance from OMB Circular No. A-123, Appendix C, *Requirements for Payment Integrity Improvement*.

DOL has established certain internal controls to address the payment integrity of certain programs. These controls include submitting the Department's payment files through the DNP Portal, and matching program beneficiaries against the Death Master File (DMF). It also includes verifying all vendors and grantees through the Federal System for Award Management to determine if they have

been suspended or disbarred. DOL relies on these controls to help prevent improper payments.

DOL has also established separate procedures for the Unemployment Insurance program, because beneficiary payments are made by the state workforce agencies. Specifically, DOL assisted state work force agencies with the establishment of the Unemployment Insurance Integrity Center, which helps develop and promote innovate UI program integrity strategies to reduce improper payments and prevent and detect fraud. One strategy includes the Integrity Data Hub, which is a centralized, multi-state analysis tool that allows participating state workforce agencies to cross-match UI claims against a database of information to help identify potential improper payments.

Corrective Actions

In FY 2018, DOL presented 16 corrective actions in its AFR as part of its improper payments reporting. Four of these corrective actions related to the FECA program and 12 related to the UI program. Consistent with guidance from OMB Circular No. A-123 Appendix C, the corrective actions developed and implemented by DOL are reported under each root cause that has been identified within the AFR. DOL annually reviews and updates the open corrective actions based on input from the FECA and UI programs.

OBJECTIVES, SCOPE AND METHODOLOGY

The objectives of our audit were to:

1. Evaluate DOL's compliance with IPERA, by determining if DOL:

    (1) Published an Agency Financial Report (AFR) or Performance and Accountability Report (PAR) for the most recent fiscal year and posted that report and any accompanying materials required by OMB on the agency website.

    (2) Conducted a program-specific risk assessment for each program or activity that conforms with Section 3321 of Title 31 U.S.C. (if required).

    (3) Published improper payment estimates for all programs and activities identified as susceptible to significant improper payments under its risk assessment (if required).

    (4) Published programmatic corrective action plans in the AFR or PAR (if required).

(5) Published, and is meeting, annual reduction targets for each program assessed to be at risk and estimated for improper payments (if required and applicable).

(6) Reported a gross improper payment rate of less than 10 percent for each program and activity for which an improper payment estimate was obtained and published in the AFR or PAR.

2. Determine if DOL has implemented certain procedures to address the requirements of the Do Not Pay Initiative, as defined in OMB Circular A-123, Appendix C, *Requirements for Payment Integrity Improvement*; and

3. Determine the status of corrective action plans related to IPERA that were reported in DOL's FY 2018 AFR.

SCOPE AND METHODOLOGY

The scope of our performance audit was DOL's FY 2019 improper payment and reporting data as presented in the Other Information section of the FY 2019 AFR; as well as certain other reporting required by OMB A-123, Appendix C.

During our planning and testing phase, we conducted interviews, collected and inspected auditee-provided documentation and evidence, and participated in process and control walkthroughs with the programs identified as susceptible. A summary of the procedures we performed is as follows:

- Obtained an understanding of DOL's improper payments reporting process and associated controls, as well as DOL's process over DNP, through inquiries with management;
- Reviewed DOL's policies and procedures over the IPERA reporting process and DNP;
- Reviewed management's agency-wide risk assessment for all agency disbursements/programs;
- Reviewed applicable legislation and regulations, increases in funding levels, or changes to the program specific risk assessment process for each program or activity;
- Reviewed the statistically determined improper payments estimates for each program deemed susceptible to improper payments and the underlying sampling methodologies;
- Reviewed a sample of state workforce agency submitted BAM claim data, and FECA benefit payments;
- Reviewed a sample of DOL expenditures and grant awards against the System for Award Management database;
- Reviewed DOL's DNP submissions and related reports;

- Reviewed DOL's corrective action plans as reported in its AFR; and
- Obtained any OMB Waivers/Exemptions for Improper Payments Reporting, if applicable.

In carrying out this methodology, we obtained sufficient, appropriate evidence to provide a reasonable basis for our conclusions related to our audit objectives.

RESULTS AND CONCLUSIONS

Based on our audit procedures performed, we determined that DOL met 5 of the 6 IPERA compliance requirements. DOL did not meet the requirement to report a gross improper payment rate of less than 10 percent for each program and activity for which an improper payment estimate was obtained and published in the AFR. See below for additional details of our results.

- Requirement 1 – Determine if DOL published an AFR for the fiscal year ended September 30, 2019, and posted that report and any accompanying materials required by OMB on the agency website.

Yes. DOL published its AFR for FY 2019 on November 18, 2019, and posted the AFR on the agency website at www.dol.gov. The AFR included a Payment Integrity section with the OMB required subsections, which included: Payment Reporting, Recapture of Improper Payments Reporting, Agency Improvement of Payment Accuracy with Do Not Pay Initiative, Barriers, Accountability, Agency Information Systems and Other Infrastructure, Sampling and Estimation, and Risk Assessment. The information presented in the AFR agreed to supporting documentation provided by DOL.

- Requirement 2 – Determine if DOL conducted a program-specific risk assessment for each program or activity that conforms with Section 2(a) of IPIA.

Yes. DOL conducted a risk assessment based on the requirements in the IPIA.

DOL continued to identify the UI and FECA programs as susceptible to improper payments. In addition, DOL assessed 12 other programs for FY 2019, of which all 12 were identified as not susceptible to significant improper payments. DOL reported 27 other programs that had been reviewed in the last 2 years and were also identified as not susceptible to significant improper payments.

- Requirement 3 – Determine if DOL published improper payment estimates for all programs and activities identified as susceptible to significant improper payments under its risk assessment.

Yes. DOL published improper payment estimates for both the UI and FECA programs. Both programs utilized a statistical estimation approach that applied a 95 percent confidence level, plus or minus 3 percent. The UI program reported an improper payment rate of 10.61 percent, which resulted in an estimated $2.9 billion in gross improper payments. The FECA program reported an improper payment rate of 2.44 percent, which resulted in an estimated $73.6 million in gross improper payments.

- Requirement 4 – Determine if DOL published programmatic corrective action plans in the AFR.

Yes. DOL reported corrective actions for each of the reported root causes in the Other Information section of the AFR. Specifically, DOL reported corrective actions related to the following UI root cause categories: Program Design or Structural Issue, Inability to Authenticate Eligibility, Failure to Verify, Administrative or Process Error Made, and Insufficient Documentation to Determine. In addition, DOL reported corrective actions related to the following FECA root cause categories: Inability to Access Data, Data Needed Does Not Exist, Administrative or Process Error Made, Other Party and Fraud Restitution.

- Requirement 5 – Determine if DOL published, and is meeting, annual reduction targets for each program assessed to be at risk and estimated for improper payments.

Yes. DOL met the established reduction targets of 14.75 percent and 3.25 percent published in the DOL FY 2018 AFR for the UI and FECA programs, respectively.

- Requirement 6 – Determine if DOL reported a gross improper payment rate of less than 10 percent for each program and activity for which an improper payment estimate was obtained and published in the AFR.

No. Although the FECA program met the requirement with an improper payment rate of 2.44 percent, the UI program reported an improper payment rate of 10.61 percent.

In addition, based on our audit procedures and the results obtained, we determined that DOL implemented certain procedures to address the requirements of DNP, as defined in OMB Circular A-123, Appendix C. The procedures established include the review of payment files sent to Treasury, the matching of program beneficiaries against the DMF, and the establishment of the UI Integrity Center for use by state workforce agencies. DOL reported 1.9 million payments reviewed, with a value of $6.9 billion, for possible improper payments in its FY 2019 AFR.

We also reviewed the 16 corrective actions in DOL's FY 2018 AFR to determine their status. DOL reported 12 corrective action plans for the UI program and 4 corrective action plans for the FECA program in its FY 2018 AFR. Three UI corrective action plans associated with the Inability to Authenticate Eligibility and Failure to Administrative or Process Errors root causes were replaced with updated corrective actions for FY 2019, and 9 remained open. The 4 corrective actions associated with the FECA program remained open for FY 2019.

FINDINGS AND RECOMMENDATIONS

Our 2019 performance audit identified one finding, which is presented below. We discussed the finding with management and received their response, which is included in the appendix of this report.

Finding No. 19-01: *Continued improvements needed to meet certain required IPERA thresholds*

As noted in the Results and Conclusion section above, DOL reported an improper payment rate of 10.61 percent for the DOL UI program, which exceeded the 10 percent threshold established by IPERA. As a result, DOL was not in compliance with IPERA.

IPERA Section 3(a)(3), *Compliance*, states:

> The term "compliance" means that the agency –
>
> (F.) has reported an improper payment rate of less than 10 percent for each program and activity for which an estimate was published under section 2(b) of the Improper Payments Information Act of 2002 (31 U.S.C. 3321 note).

UI management indicated that compliance with the payment "when due" provisions of Section 303(a)(1) of the Social Security Act creates structural issues resulting in the following primary barriers that impeded their ability to maintain a gross improper payment rate of less than 10 percent:

- Work Search: Work Search errors occur when claimants fail to provide acceptable evidence of their work search efforts in accordance with state law, policy, or procedure. Management stated that work search verification was very workload intensive, and states lacked adequate resources to facilitate the reporting and verification of work search activities in a timely manner to proactively prevent these errors. Additionally, eligibility requirements vary from state to state, and work search audits, which may help detect but not

prevent improper payments, were not required since dedicated funding was not provided for this initiative.

- <u>Benefit Year Earnings (BYE):</u> BYE errors are payments to individuals who continue to claim benefits after they have returned to work and have unreported earnings. Management stated there was at least a 6-week lag in the data sources used by states to identify individuals that continued to claim benefits after returning to work. Additionally, there is a lack of adequate state funding for staff resources to validate and adjudicate "hits" from the cross-matches designed to detect these improper payments.

- <u>Delays in receiving separation information:</u> Management stated a challenge in the determination of improper payments for states occurs when claimants, employers and third party administrators do not report complete and accurate separation information in a timely manner.

PRIOR YEAR RECOMMENDATION

The following recommendation, which was issued in the *Reporting over the U.S. Department of Labor's FY 2018 Compliance with the Improper Payments and Elimination and Recovery Act* report issued by the OIG on June 3, 2019, has been updated as follows:

- Maintain management's current focus on increasing its technical assistance and funding to states to improve the improper payment reduction strategies in order to reduce the improper payments estimate rate below the 10 percent threshold.

Status: As noted in our finding, DOL was not compliant with the 10 percent threshold criteria. As a result, this recommendation remains open.

CLOSED PRIOR YEAR RECOMMENDATIONS

The following recommendations were also issued in the *Reporting over the U.S. Department of Labor's FY 2018 Compliance with the Improper Payments and Elimination and Recovery Act* report issued by the OIG on June 3, 2019. We followed up with management on the status of each recommendation.

- Develop and implement formalized policies and procedures related to the maintenance of supporting documentation for the IPERA reporting process.

  Status: DOL updated its policies and procedures, *Department of Labor Consolidated Policy and Procedures for IPERA AFR* (IPERA procedures), to include the maintenance of supporting documentation for the IPERA reporting process in July 2019.

- Develop and implement formalized policies and procedures that require a detailed review of the IPERA information in the AFR, including the related calculations and supporting documentation.

  Status: DOL updated its IPERA procedures to specify the level of detail for which reviews should be conducted, including the related calculations and supporting documentation.

APPENDIX: AGENCY'S RESPONSE TO THE REPORT

U.S. Department of Labor Office of the Chief Financial Officer
Washington, D.C. 20210

05/14/2020

MEMORANDUM FOR: **ELLIOT P. LEWIS**
Assistant Inspector General for Audit

FROM: **JAMES WILLIAMS**
Chief Financial Officer

SUBJECT: Response to the Office of Inspector General's draft report
"REPORTING OVER THE U.S. DEPARTMENT OF LABOR'S
FY 2019 COMPLIANCE WITH THE IMPROPER PAYMENTS
ELIMINATION AND RECOVERY ACT" (Report No. 22-20-
008-13-001)

The Department of Labor's (DOL or the Department) Office of the Chief Financial Officer
(OCFO) thanks the Office of Inspector General (OIG) for its annual review of the Department's
compliance with requirements under the Improper Payments Elimination and Recovery Act
(IPERA) of 2010, and for the opportunity to respond to its draft Fiscal Year (FY) 2019 report
entitled "REPORTING OVER THE U.S. DEPARTMENT OF LABOR'S FY 2019
COMPLIANCE WITH THE IMPROPER PAYMENTS ELIMINATION AND RECOVERY
ACT" (Report No. 22-20-008-13-001).

The Department is committed to good stewardship of public funds and takes seriously its
responsibility to prevent, detect, and recover improper payments in its programs and to report
fully and accurately on those efforts. The Department appreciates the OIG's acknowledgement
of the steps management has taken to review its payment integrity policy, procedures, and
reporting by closing two outstanding prior year recommendations. In addition, we acknowledge
the Federal-State Unemployment Insurance program continues to report an estimated improper
payments rate in excess of the 10 percent threshold set in IPERA which resulted in the OIG
maintaining the final recommendation, as described below.

Recommendation #1: Maintain management's current focus on increasing its technical
assistance and funding to states to improve the improper payment reduction strategies in order
to ensure compliance with the improper payments estimate rate threshold.

The OIG is correct to note that the federal-state Unemployment Insurance (UI) program reported an
estimated improper payment rate greater than the 10 percent compliance threshold for the FY 2019
reporting period. However, we are pleased to report that, as a result of the Department's efforts over
the past 18 months, significant progress has been made to bring down the UI improper payment rate.
The estimated UI improper payment rate for the most recent 12-month period ending December 31,
2019, is 9.86 percent, trending well below the 10.61 percent[1] reported in the Department's Agency
Financial Report (AFR) in November 2019.

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[1] Data reported in the Agency Financial Report is for 12-month period ending June 30, 2019.

This Administration has made "Getting Payments Right" a Cross-Agency Priority Goal in the President's Management Agenda to reduce cash lost to taxpayers through improper payments. Additionally, one of the Department's Agency Priority Goals (APG) is to decrease UI improper payments. Specifically, the APG is that by September 30, 2021, the UI improper payment rate will be 9.0 percent.[2] While the impact of coronavirus disease 2019 (COVID-19) on the UI system may delay achieving this goal by September 30, 2021, the Department is committed to addressing this complex and challenging issue.

The UI program is a federal-state partnership under which the significant majority of UI payments are made by states, under state law, using state funds. As reported in the FY 2019 AFR, none of the reported improper payments were made directly by the Department.[3] However, in FY 2020, the Department will continue its efforts to improve implementation of an aggressive and ever evolving Program Integrity Strategic Plan to address the leading root causes of improper payments.

Since the AFR has been issued, the Department has taken additional steps to address improper payments in the UI program. These actions include the following:

- In FY 2019, ETA identified 11 states with high UI improper payment rates that significantly contribute to the national improper payment rate. Each state was provided customized and intensive business process analysis and technical assistance through the UI Integrity Center. ETA conducted quarterly conference calls with each state to monitor progress. Each state was also provided intensive consultative services through the UI Integrity Center to support its strategies to bring its improper payment rates down. With the collaborative efforts by ETA and the UI Integrity Center, 10 of these 11 states experienced a significant reduction in their improper payment rates. ETA continues its monitoring and oversight activities regarding these states.

- In FY 2019, the UI Integrity Center implemented an enhanced UI Integrity Data Hub (IDH) infrastructure to support all 53 states' cross-match efforts with new nationwide datasets. Additionally, significant new functionality was implemented on the IDH including Multi-State Cross-Matching capability to identify UI claims data being used across multiple states and a Fraud Alert capability that allows participating states to share information through the IDH on emergent fraud schemes/activities identified in their states. During FY 2020, the IDH will add access to data supporting identity verification at the front end of UI claims processing, and other data sources available for state use.

- In September 2019, the Department awarded a contract to the UI Integrity Center to provide all states access to an identity verification (IDV) dataset through the IDH. State UI agencies will use this new tool to help prevent identity theft and fraud at the front-end of the claim process. The UI Integrity Center has selected a vendor and is currently implementing the IDV dataset on the IDH.

- On March 3–5, 2020, the National Association of State Workforce Agencies hosted a training seminar to promote best practices for all state UI agencies to increase employer use of the State Information Data Exchange System (SIDES) and encourage state implementation of SIDES exchanges. State UI agencies use SIDES to improve the timeliness and accuracy of information about a UI applicant's separation from employment, which is a leading root cause of UI improper payments.

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[2] https://www.performance.gov/labor/APG_labor_2.html
[3] U.S. Department of Labor. FY 2019 Agency Financial Report. p. 165.
https://www.dol.gov/sites/dolgov/files/OPA/reports/2019annualreport.pdf

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- On February 10, 2020, ETA issued a Training and Employment Notice No. 17-19[4] to announce the availability of Model UI State Work Search Legislation and strongly encourage its adoption by states. The model legislation was developed to assist states in proactively referring claimants to suitable work; establishing a comprehensive definition of acceptable work search activities that focuses on rapid reemployment; and providing fair notice and documentation requirements. The TEN also provides a framework for states to consider when crafting their UI work search laws, such as making them easily understood, so as to promote claimant compliance and prevention of UI improper payments. Additionally, letters were sent from the Assistant Secretary for Employment and Training to each State Administrator encouraging them to adopt the approach outlined in the model legislation and the TEN.

- The Department transmitted to Congress a package of proposed draft legislation titled, Unemployment Compensation Program Integrity Act, and included proposals in the President's Budget in each of the last three years. The FY 2021 President's Budget includes a similar Program Integrity Package designed to provide states with tools and resources to combat UI fraud and improper payments including a new proposal that would require states to implement the UI Integrity Center's IDH described above.

- As noted above, the FY 2021 Budget includes a package of legislative proposals designed to provide states with more tools and resources to reduce the UI improper payment rate. It also includes a request for $90 million to help states specifically target the two largest root causes of UI improper payments: claimants continuing to claim benefits after returning to work and claimants failing to comply with work search requirements.

Despite these efforts, certain program features serve as structural barriers that hinder the state's ability to further reduce improper payments. Section 303(a)(1) of the Social Security Act requires states to make UI benefit payments "when due". The presumption of continued eligibility after the initial eligibility is determined requires states to provide a claimant notice and the opportunity to be heard before it can stop payments to the individual.[5] As OIG points out, this creates structural issues which further impacts the top three root causes of improper payments.

There are strong public policy reasons for these program design and structural requirements. They promote the effectiveness of the critical UI safety net by getting benefit payments to eligible unemployed individuals for whom suitable work is not available during periods between jobs. Additionally, by providing temporary partial wage replacement to the unemployed, the program plays a vital role in maintaining purchasing power and in stabilizing local economies during periods of economic downturn.

The Department believes strategic efforts to reduce the improper payment rate constitute a strong and cost effective approach to improving financial integrity in the federal-state UI partnership and we look forward to collaborating with the OIG and other stakeholders to do more.

If you have any further questions or require additional information on the Department's payment integrity efforts, please contact myself or Chris Polen at (202) 693-6800.

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[4] https://wdr.doleta.gov/directives/attach/TEN/TEN_17-19.pdf
[5] *See California Dep't of Human Res. Dev. v. Java,* 402 U.S. 121, 130-35 (1971).

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REPORT FRAUD, WASTE, OR ABUSE
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(202) 693-7020

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U.S. Department of Labor
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Washington, DC 20210