

**Statement of Elliot P. Lewis  
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Office of Inspector General  
U.S. Department of Labor  
Before the Subcommittee on Human Resources  
Committee on Ways and Means  
U.S. House of Representatives  
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Good morning Mr. Chairman and members of the Subcommittee. Thank you for the opportunity to testify on the work of the Office of Inspector General (OIG), U.S. Department of Labor (DOL), in the Unemployment Insurance (UI) program. My name is Elliot Lewis and I am the Assistant Inspector General for Audit. Today I will highlight some of our recent work in the area of overpayments, discuss our audit recommendations, and outline our legislative recommendations for improving the detection and prevention of overpayments.

**BACKGROUND**

By way of background, the Department of Labor's UI program is a Federal-state partnership and is DOL's largest income maintenance program. While the framework of the program is determined by Federal law, benefits for individuals are dependent on state law and administered by State Workforce Agencies. Like many programs of this magnitude, the UI program, which was designed to assist those who are in between employment through no fault of their own, is vulnerable to improper payments including fraud.

The Employment and Training Administration (ETA) monitors the accuracy of UI payments made to claimants and statistically projects the amounts of overpayments nationwide through the benefit accuracy measurement (BAM). Moreover, each state has a benefit payment control (BPC) unit that detects and recovers UI overpayments through a variety of methods, primarily through a computerized match between either employer wage records or new hire data and records of benefits paid to claimants.

The OIG has raised concerns in recent years about the magnitude and consistency of the overpayment rate in UI. Since 1987, the estimated overpayment rate has remained fairly flat, between 8% and 9% per year. BAM projections for calendar year (CY) 2004 estimated overpayments at \$3.4 billion. However, state BPC units currently detect only about one third of the overpayments projected by BAM. For CY 2004, BPC units detected only \$1.1 billion for possible collection. Only a portion of the \$1.1 billion will actually be collected due to various difficulties exacerbated by delayed detection. The low collection potential demonstrates the importance of prevention and early detection of overpayments.

### **AUDIT OVERSIGHT**

Mr. Chairman, our efforts to combat UI overpayments include audits of the UI program, criminal investigations, and cooperative education with DOL and the states. Our recent audit work has focused on receipt of unauthorized benefits, also referred to as overpayments. In response to concerns about continued overpayment problems in the UI program, the OIG audited the Department's Benefit Accuracy Measurement. We also

conducted an audit to determine whether the use of new hire data is more effective and efficient than traditional cross-match methods for detecting overpayments.

#### Benefit Accuracy Measurement (BAM) Program Audit

Our 2003 BAM audit recommended that the Department analyze the vast amount of data collected through the BAM to identify trends or patterns of errors that result in overpayment and address systemic problems. In that audit, the OIG also estimated that expedited connectivity to the state new hire directories throughout the country could save the Unemployment Trust Fund (UTF) an estimated \$428 million annually through a reduction in overpayments. The Department agreed with this finding but estimated a maximum potential savings of \$139 million. We also found, and ETA acknowledged, that elevating UI overpayments to a Core Performance Measure should result in: increased oversight at the state and Federal level, identification of systemic problems, and corrective action plans for states with unacceptable performance.

#### Unemployment Insurance Benefit Payment Control (BPC) Performance Audit

We also conducted an audit of BPC methodologies, specifically state access to their own state new hire directories. Just prior to issuing the BPC report, the SUTA Dumping Act of 2004 (P.L. 108-295) was enacted which granted state UI agencies access to the National Directory of New Hires.

Our audit found that despite the benefits of cross-matching with their own state new hire data, 12 states, for a variety of reasons, had not implemented cross-matching to their

state new hire directory. In those states that had implemented a state new hire directory cross-match, we found that State Workforce Agencies' use of state new hire data was significantly more effective in identifying overpayments than the traditional technique of cross-matching UI benefits against wage records reported by employers. The seven state UI programs we audited that were using the state new hire detection method identified 41,404 overpayments, compared to their wage/UI benefit cross-match that identified 29,872 overpayments.

As a result of this audit, Mr. Chairman, we made several recommendations to enhance the effectiveness and efficiency of using new hire data to detect overpayments. Among them is a recommendation for employers to report the first day of earnings for all new hires. Current reporting requirements do not provide the data needed for new hire detection to precisely identify UI overpayments. As a result, the method identifies a significant number of cases that, upon further review, do not involve payment of ineligible benefits. Defining and requiring employers to report the specific date that new hires begin earning wages would increase the screening accuracy of new hire detection, thus reducing the resources expended on identifying and investigating "false hits."

Additionally, we recommended that DOL continue to provide technical assistance and resources to the state UI programs that are currently not using new hire detection to initiate and/or complete plans for implementation. We further recommended that DOL encourage state UI programs to access the National Directory and coordinate efforts with the U.S. Department of Health and Human Services and the state UI programs to

accomplish this. In response to our recommendation, ETA informed the OIG that during FYs 2003 and 2004, a total of \$18 million was awarded to states for UI integrity related projects, of which, over one third was awarded for benefit payment control cross-matches, including implementation or enhancement of new hire detection systems. ETA is currently working with state and Federal agencies to explore how states can best use the National Directory. ETA has indicated that it will be issuing a report this summer on the results of a pilot to test the value of connecting to the National Directory.

### **NATIONAL DIRECTORY OF NEW HIRES**

Based on what we have learned through our audit work, Mr. Chairman, the OIG is of the opinion that using new hire data is a better method to identify overpayments than the more traditional method of cross-matching UI claims against employers' wage records. The traditional method relies on data that is reported quarterly, whereas new hire data is generally reported by employers within 20 days. The National Directory is the most comprehensive list of new hires because it consolidates all state data and includes Federal employment data and data on multi-state employers who may report to only one state. If fully implemented and utilized by the states, the National Directory cross-match should result in earlier detection of overpayments, reduce overpayment dollars, and increase the chance of overpayment recovery.

### **INVESTIGATIONS**

Mr. Chairman, as I mentioned earlier, UI overpayments occur for a number of reasons, some of which are fraudulent. The BAM estimated potential fraud-related overpayments

for CY 2004 at \$868 million or 25.5% of projected overpayments. OIG investigations have identified several methods used to defraud the UI system that have resulted in substantial losses to the UTF. Of greatest concern are identity theft schemes, which involve the use of stolen identities to apply for UI benefits. These cases often involve non-traditional organized crime groups, and are therefore broader in scope and more costly to the UI program than individual claimant fraud schemes of the past. One such case in California involved a Mexican non-traditional organized crime group that systematically filed thousands of fraudulent claims in four states. Our investigation ended this fraud scheme, which involved over 15,000 stolen identities and identified a total of over \$58 million in losses.

One key way for DOL to mitigate UI fraud is to make states more aware of its dangers and of typical fraud schemes, such as identity theft or creation of fictitious companies to obtain UI benefits for alleged former employees. We continue to partner with ETA to provide training for state UI personnel on fraud prevention and detection.

### **LEGISLATIVE RECOMMENDATIONS**

Mr. Chairman, there are two legislative recommendations that we believe will improve detection and prevention of overpayments. First, to reduce overpayments and for program evaluation purposes, we believe that the OIG and the Secretary of Labor should be granted statutory authority to easily and expeditiously access state Unemployment Insurance wage records, Social Security Administration wage records, and information from the National Directory.

Secondly, we recommend that the Personal Responsibility and Work Opportunities Reconciliation Act of 1996 be amended, or new legislation be introduced, to require employers to report a new hire's first day of earnings and provide a clear, consistent, nationwide definition for this date. Use of a specific, uniform date of wage earning would allow for increased efficiency in cross-matching dates of benefits received with dates of reported earnings.

### **CONCLUSION**

In conclusion, Mr. Chairman, we believe that overpayments can be reduced by better use of existing data, including data obtained from the BAM, the UI performance measurement system, and the new hire cross-match. We also believe that granting DOL and the OIG access to the National Directory will facilitate our work to detect and deter overpayments in the UI program. We expect that as the states enact their own legislation in compliance with the SUTA Dumping legislation, and as the Department responds to our recent audit recommendations, there will be a beneficial impact on the reduction of overpayments. We will continue to follow-up with the Department on the status of our recommendations.

I appreciate the opportunity to testify before you and I would be happy to answer any questions you or any member of the Subcommittee may have.