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I. Introduction

As a member of the United States of Department of Labor (DOL) Employment and Training Administration (ETA) leadership in early 2020, I witnessed the pandemic’s economic devastation to American workers and then the legislative, policy, and operational emergency policy unemployment benefit responses. Later, as an unemployment insurance claimant and identity theft victim – like many others – I witnessed the infrastructure and fraud prevention gaps in the system’s operational realities. Now, working in unemployment insurance policy and technology, I hope that the lessons of this experience, particularly around fraud, can be the catalyst for significant policy and operational change in the program.

Much of this content is drawn directly from a forthcoming paper, with co-author Matthew Weidinger, on the unemployment insurance pandemic fraud experience and from previously published work.¹

II. Unemployment Insurance Pandemic Fraud Retrospective: What and Why

The coronavirus pandemic tested the nation’s unemployment benefits system more than any prior recession. Not only did far more individuals file claims for weekly benefits than ever before, but lockdowns and mass layoffs concentrated those record claims starting in March 2020, creating an unprecedented surge in demand for benefits that quickly rose to an apparent 33 million claims by June 2020.² That soaring demand for assistance, accompanied by unprecedented federal benefit expansions, also created unprecedented opportunities for everyone from small-time crooks to international criminal organizations to defraud the nation’s unemployment benefits system.³

¹ Amy Simon. American Enterprise Institute, “Unemployment Insurance at a Crossroads: Tracing Program Design During and Beyond COVID-19.” October 20, 2021, <https://www.aei.org/research-products/report/unemployment-insurance-at-a-crossroads-tracing-program-design-during-and-beyond-covid-19/>

² Department of Labor, “Unemployment Insurance Weekly Claims,” July 9, 2020, <https://oui.doleta.gov/press/2020/070920.pdf>

³ For a discussion of the involvement of organized criminal groups, see: Inskit Group, “Termination of Federal Unemployment Programs Represents Turning Point for Fraudsters,” *Recorded Future*, October 28, 2021, <https://www.recordedfuture.com/termination-federal-unemployment-programs-turning-point-fraudsters>. Cezary Podkul, “How Unemployment Insurance Fraud Exploded During the Pandemic”, ProPublica, July 26, 2021, <https://www.propublica.org/article/how-unemployment-insurance-fraud-exploded-during-the-pandemic>. Matt Weidinger, “Did Russian Gangs Steal More from US Taxpayers Than We Gave Ukrainians to Defend Themselves?” *Washington Examiner*, November 18, 2022, <https://www.aei.org/op-eds/did-russian-gangs-steal-more-from-us-taxpayers-than-we-gav-ukrainians-to-defend-themselves>

The scale of improper spending and outright fraud is only now coming into clearer focus. Official federal estimates, while still preliminary, are astonishing. Based on an assumed improper payment rate of more than 21 percent, government officials have conservatively estimated at least \$191 billion in improper payments during the pandemic. However, that figure is expected to rise, likely to \$240 billion or more, following a recent Government Accountability Office (GAO) report that found that the Pandemic Unemployment Assistance (PUA) program had an even higher improper payment rate of almost 36 percent.⁴ GAO separately estimates between \$100 billion and \$135 billion in unemployment benefits were lost to fraud during the pandemic, or approximately one in every seven dollars in benefits paid.⁵

Problems with state technology systems, now well-known, spiked alongside rapidly ascending claims in mid-2020.⁶ Soaring claims—including by individuals and groups bent on defrauding the system—compounded underlying administrative issues and novel factors related to the pandemic that resulted in enormous stress on the system and long waits for rightful claimants. During the 18 months between when the pandemic struck and temporary federal programs expired in early September 2021, nearly 1.6 billion weekly state and federal unemployment benefit checks were paid.⁷ The cost of these benefits was equally unprecedented: approximately \$900 billion in total unemployment benefits was distributed between March 2020 and September 2021, including \$700 billion in federal benefits.⁸

The DOL IG, in testimony to Congress in February 2023, provides the most recent government estimate of how much of that spending resulted from improper payments. Applying DOL’s December 2022 estimate of a 21.52 percent improper payment rate for the state UI program and selected federal programs, the IG suggested the “low end” for improper payments was \$191 billion.⁹ However, that estimate didn’t include the subsequent and even higher 35.9 percent PUA improper payment rate that DOL reported in August 2023.¹⁰ When that higher PUA improper payment rate is factored in, overall improper payments could easily rise to \$240 billion or more.¹¹

⁴ Department of Labor, “PUA Improper Payment Rate Report,”

https://oui.doleta.gov/unemploy/pdf/Pandemic_Unemployment_Assistance_Improper_Payment_Rate_Report.pdf

⁵ Government Accountability Office, “Unemployment Insurance: Estimated Amount of Fraud During Pandemic Likely Between \$100 Billion and \$135 Billion,” September 12, 2023, <https://www.gao.gov/products/gao-23-106696>

⁶ For example, see Minyvonne Burke, “Coronavirus: State unemployment websites crash as applications surge,” NBC News, March, 18, 2020, <https://www.nbcnews.com/news/us-news/coronavirus-state-unemployment-websites-crash-applications-surge-n1162731>

⁷ Department of Labor, “Weeks Claimed in All Programs (Expanded),”

<https://oui.doleta.gov/unemploy/docs/allprograms.xlsx>

⁸ Government Accountability Office, “Pandemic Programs Posed Challenges, and DOL Could Better Address Customer Service and Emergency Planning,” <https://www.gao.gov/assets/gao-22-104251.pdf>

⁹ US Department of Labor Inspector General, Testimony before the US House Committee on Ways and Means, February 8, 2023, <https://www.oig.dol.gov/public/testimony/02082023.pdf>

¹⁰ US Department of Labor, “PUA Improper Rate Report,” August 21, 2023,

https://oui.doleta.gov/unemploy/pdf/Pandemic_Unemployment_Assistance_Improper_Payment_Rate_Report.pdf

¹¹ For a review, see Matt Weidinger, “Up to \$135 Billion in Pandemic Unemployment Fraud – and Still Counting,” Real Clear Policy, September 29, 2023,

https://www.realclearpolicy.com/articles/2023/09/29/up_to_135_billion_in_pandemic_unemployment_fraud_and_s_till_counting_982978.html

Recovery of misspent funds to date has been minimal. According to the September 2023 GAO report, as of May 1, 2023, states had recovered \$1.2 billion in fraudulent overpayments and \$5.6 billion in nonfraudulent overpayments.¹² While recoveries should continue growing, the nonpartisan Congressional Budget Office (CBO) expects that recoveries of currently-identified fraudulent payments “are likely to be a small percentage of total suspected fraud.”¹³ The CBO review suggests that at most eight percent of identified losses to pandemic fraud may be recovered. Based on this and the GAO’s fraud loss estimate, American taxpayers have likely lost over \$100 billion in unrecoverable unemployment insurance fraud.

III. Thematic Elements of Unemployment Insurance Pandemic Fraud Mechanics

Fraudsters used various attacks on state workforce agency websites and systems; these attacks differed markedly from pre-pandemic attempts to defraud the UI system. The following is a non-exhaustive, non-technical overview of the most commonly used attacks.

- *Identity theft*: This was the most common type of fraud, especially in the vulnerable PUA program. After purchasing the relevant information on dark web marketplaces, a fraudster would apply with another identity on the state workforce agency site and direct benefits to a physical address or bank account that they controlled.¹⁴ Resulting benefits would be quickly moved out of the original account to elude any later recovery efforts.¹⁵ This fraud was particularly easy to commit given the massive volumes of available PII from unrelated data breaches. In general, identity theft fraud includes most of the incarcerated claimant schemes, the deceased person schemes, and multi-state application schemes. It also created thousands of victims who learned their identity had been stolen only when they were unable to apply for benefits or when they received an unexpected 1099-G form from the Internal Revenue Service indicating they owed income taxes on unemployment benefits they never applied for or received.¹⁶
- *Synthetic identity*: Fraudsters could create a false identity from a mosaic of individual data elements assembled to create a non-existent claimant. Crosschecking any individual data element of the application might not reveal discrepancies with existing data, but if a combination of elements were checked, it likely would have revealed serious issues. This includes all schemes in which an individual data element or elements were used and

¹² Government Accountability Office, “Unemployment Insurance: Estimated Amount of Fraud during Pandemic Likely Between \$100 Billion and \$135 Billion,” September 23, 2023, <https://www.gao.gov/assets/gao-23-106696.pdf>

¹³ Congressional Budget Office, “At a Glance: H.R. 1163, Protecting Taxpayers and Victims of Unemployment Fraud Act,” March 21, 2023, <https://www.cbo.gov/system/files/2023-03/hr1163.pdf>

¹⁴ Cezary Podkul, “How Unemployment Insurance Fraud Exploded During the Pandemic”, *ProPublica*, July 26, 2021, <https://www.propublica.org/article/how-unemployment-insurance-fraud-exploded-during-the-pandemic>
Cezary Podkul, “Congressional Chair Asks Google and Apple to Help Stop Fraud Against U.S. Taxpayers on Telegram,” *ProPublica*, March 28, 2022, <https://www.propublica.org/article/congressional-chair-asks-google-and-apple-to-help-stop-fraud-against-u-s-taxpayers-on-telegram>

¹⁵ Cezary Podkul, “How Unemployment Insurance Fraud Exploded During the Pandemic”, *ProPublica*, July 26, 2021, <https://www.propublica.org/article/how-unemployment-insurance-fraud-exploded-during-the-pandemic>.

¹⁶ Greg Iacurci, “Is a scammer getting unemployment benefits in your name? Victims will find out this tax season,” *CNBC.com*, February 2, 2022, <https://www.cnbc.com/2022/02/02/victims-of-unemployment-fraud-may-find-out-this-tax-season.html>

reused many times across claimants or applications.

- *Account Takeover*: Using easily obtained pieces of PII, fraudsters often socially engineered access to an eligible claimant’s existing account and changed the bank account information to drain or redirect benefit balances.¹⁷
- *Phishing Schemes*: Fraudsters would disguise themselves as representatives of state workforce agencies or the US Department of Labor, reaching out to existing claimants via phone, email, or text, and requesting verification codes or missing pieces of PII. Sometimes fraudsters would tell claimants to call a hotline or visit a webpage, either of which would be disguised to appear as the legitimate state workforce agency. Similar groups on social media would impersonate the state agency’s visual brand to convince claimants to enter relevant information into a fake site. Any of these methods would generally allow fraudsters to complete an account takeover directly.¹⁸
- *Benefit Card Skimming*: When states provided benefits on affiliated bank-managed temporary debit cards, they often did not have the additional layers of security necessary to prevent easy theft of the card’s access information. Fraudsters could steal the information, create a replica card, and drain the accounts quickly without the claimant’s knowledge. In one scheme, card skimming technology installed at an ATM allowed a fraudster to steal and repurpose benefit card balances into hundreds of fake gift cards.¹⁹
- *Bribery schemes*: Some state staff or contractors accepted payments from third parties to have their fraudulent claims reviewed and approved. State agency workers would solicit or advertise this service, sometimes in coordination with a ring of known co-conspirators. This type of fraud was likely more widespread than is understood as many state agencies do not appear to have deeply investigated their own administrative records for evidence of insider threat.²⁰

¹⁷ <https://www.dol.gov/agencies/eta/UIIDtheft>; [https://www.finra.org/rules-guidance/notices/22-21#:~:text=In%20connection%20with%20the%20COVID,new%20accounts%20at%20member%20firms](https://www.finra.org/rules-guidance/notices/22-21#:~:text=In%20connection%20with%20the%20COVID,new%20accounts%20at%20member%20firms;); <https://abc7news.com/edd-money-stolen-account-hacked-unemployment-benefits-transferring-payments-to-bank/13186896/>;

¹⁸ Federal Trade Commission Consumer Alert, “Phishing Scheme targets unemployment insurance benefits and PII”, <https://consumer.ftc.gov/consumer-alerts/2021/08/phishing-scheme-targets-unemployment-insurance-benefits-and-pii>

¹⁹ Ritika Shah, Stephen Council, Angelica Serrano-Roman, Leslie Picker, Jennifer Schlesinger, “How criminals siphoned off unemployment payments directly from recipients’ accounts”, *CNBC*, July 16, 2021, <https://www.cnn.com/2021/07/16/unemployment-how-fraudsters-stole-benefits-from-recipients-accounts.html>; KSNV, “Romanian national gets prison time for skimming hundreds of Nevada DETR debit cards”, <https://news3lv.com/news/local/romanian-national-gets-prison-time-for-skimming-hundreds-of-nevada-detr-debit-cards>

²⁰ Ryan Jeltema, “2 accused of elaborate insider fraud scheme at Michigan Unemployment Insurance Agency”, *ABC12 News*, May 19, 2022 https://www.abc12.com/news/crime/2-accused-of-elaborate-insider-fraud-scheme-at-michigan-unemployment-insurance-agency/article_c30290a8-c638-11ec-907e-cf6acc6ea25e.html; United States Attorney’s Office Eastern District of Virginia, “Former Federal Employee Pleads Guilty to \$2M Unemployment Benefits Fraud Scheme”, <https://www.justice.gov/usao-edva/pr/former-federal-employee-pleads-guilty-2m-unemployment-benefits-fraud-scheme>; Office of the Inspector General, “OIG Publishes Open Letter Regarding UI Fraud in State Government”, <https://oig.georgia.gov/press-releases/2023-01-04/oig-publishes-open-letter-regarding-ui-fraud-state-government>; United States Attorney’s Office Central District Office, “One-Time EDD Employee

- *Self-dealing*: State staff or contractors sometimes applied for and received benefits in their own or others' names while employed. Staff could also run identity theft rings independently and without external parties.²¹

Separate from the attacks themselves, many fraudsters have access to supportive services to enable attacks:

- *Document fraud*: Many types of identity schemes are enabled by the quick production of good-enough documents with necessary data elements. This is no longer limited to image manipulation as the wide availability of 3D printers makes fake document production economical and quick. This also highlights the difficulty of relying on identity documents or liveness checks as the primary keystone for verification.²²
- *Bot Attacks*: To most efficiently identify both the states likely to pay on fraudulent applications and to rapidly monetize stolen PII, fraudsters did not painstakingly apply for benefits one at a time, but instead engaged in widespread bot attacks seeking vulnerabilities in state systems.²³

Most of these schemes are not particularly sophisticated nor do they usually require advanced cybersecurity knowledge. Dark web monitoring revealed functional and responsive markets for the intelligence necessary to target attacks and the identity information necessary to monetize the attacks. The full criminal impact of the billions lost to unemployment insurance fraud will likely never be exactly quantified and certainly never fully recovered.²⁴ Although many of these methods were most effective between March 2020 and early 2021, the attacks on unemployment insurance systems have not necessarily ended when the temporary programs ended. For example, fraudsters have recently and aggressively attacked the Hawaii Disaster Unemployment

Sentenced to More Than 5 Years in Prison for Fraudulently Obtaining Nearly \$4.3 Million in COVID Relief Funds”, <https://www.justice.gov/usao-cdca/pr/one-time-edd-employee-sentenced-more-5-years-prison-fraudulently-obtaining-nearly-43>

²¹ Beth LeBlanc, “Unemployment Agency Failed to Limit Access to Sensitive Information, audit says”, *The Detroit News*, May 17, 2022, <https://www.detroitnews.com/story/news/local/michigan/2022/05/17/michigan-unemployment-agency-failed-properly-limit-access-sensitive-data-information-audit-says/9804085002/>; <https://audgen.michigan.gov/wp-content/uploads/2022/05/r186059321-8235.pdf>; <https://audgen.michigan.gov/wp-content/uploads/2022/03/r186031021-7565.pdf>

²² Caresse Jackman, “Fraud Files: Billions in federal funds meant to help unemployed stolen by scammers”, *KWOC*, January 2, 2023, <https://www.kwqc.com/2023/01/02/fraud-files-billions-federal-funds-meant-help-unemployed-stolen-by-scammers/>

²³ Tim Carpenter, “Unemployment insurance fraudsters circling back to Kansas in renewed quest for quick cash”, *Kansas Reflector* January 27, 2020, <https://kansasreflector.com/2022/01/27/unemployment-insurance-fraudsters-circling-back-to-kansas-in-renewed-quest-for-quick-cash/>; “Erin Tiernan, “Charlie Baker blasts ‘bot-based fraud’ straining Massachusetts unemployment system, thousands to lose coverage next month”, *Boston Herald*, November 23, 2020, <https://www.bostonherald.com/2020/11/23/charlie-baker-blasts-bot-based-fraud-straining-massachusetts-unemployment-system-thousands-to-lose-coverage-next-month/>

²⁴ Spencer Kimball, “Covid fraud: Street gang in Milwaukee allegedly stole millions to pay for murder, guns and drugs,” *CNBC*, August 29, 2023, <https://www.cNBC.com/2023/08/29/covid-fraud-gang-allegedly-stole-millions-to-pay-for-murder-guns-drugs.html>. Inskit Group, Unemployment Fraud in the Criminal Underground [Report], *Recorded Future*, January 14, 2021, <https://www.recordedfuture.com/unemployment-fraud-in-criminal-underground>.

Assistance (DUA) program.²⁵

IV. Lessons Learned

- *Eligibility self-attestation without an identity verification requirement does not work.*

Self-certification as the statutory eligibility benefits standard was so easily abused that it was demonstrably equivalent to having almost no standard. The PUA program allowed claimants to self-certify their eligibility for benefits while also failing to require proof of prior work or adequate identity verification. As the Department of Labor’s Inspector General summarized, PUA’s “reliance solely on claimant self-certifications without evidence of eligibility and wages during the program’s first 9 months rendered the PUA program extremely susceptible to improper payments and fraud.”²⁶

- *Require baseline identity verification prior to paying benefits, and tailor identity verification process based on risk.*

Addressing and prioritizing identity verification is a critical step for both the unemployment insurance system and for many public safety net programs beyond unemployment insurance. Lawmakers should consider requiring states to verify all claimants’ identities before benefits are paid and requiring that high-risk identities complete additional verification steps. These identity verification requirements can and should be implemented so as not to violate claimants’ rights to due process.

- *Require data matching to prevent flagrant abuse.*

Multiple administrations have proposed data-matching mandates, but such requirements have not been made permanent.²⁷ The OIG listed the lack, or temporary pausing, of such data matching as a key fraud driver during the pandemic. States understandably opted to skip additional data matching when under incredible pressure to dispense benefits. Even apart from statutory changes, the Department should use this moment to identify and rectify deficiencies in the current shared data matching sources, publicize which states are not using the available data sources, and push states on voluntary adoption.

- *Technology gaps often limit policy choices.*

It is difficult to quantitatively define the influence of the flat supplemental FPUC payments (\$600 and later \$300) on fraud incentives, but it was certainly one of the key drivers. Flat supplemental payments especially when combined with many weeks of retroactive benefits, created an enormous incentive for criminals. This poorly targeted approach resulted from two

²⁵ Daryl Huff, “Hawaii grapples with ‘rampant’ unemployment fraud, delaying aid to wildfire survivors,” *Hawaii News Now*, October 11, 2023, <https://www.hawaiinewsnow.com/2023/10/12/hawaiis-unemployment-system-rampant-with-fraud-it-scrambles-help-wildfire-survivors/>.

²⁶ <https://www.oig.dol.gov/doloiguioversightwork.htm>

²⁷ There is active legislation that would require states to use key data matches to ensure only intended recipients are able to collect benefits. HR 1163, the *Protecting Taxpayers and Victims of Unemployment Fraud Act*, was approved by the House of Representatives in May 2023.

policy factors — the desire to “make whole” individuals laid off as a result of the pandemic and often government-mandated business shutdowns, and the UI system’s inability to provide benefit increases specifically linked to each individual’s prior earnings. As many state systems were unable to program an alternative to a flat rate supplement, it appeared the only option. Lawmakers recognized flaws with this approach even before the CARES Act was enacted but proceeded with them anyway.²⁸ It should be a goal of program reforms to ensure that lawmakers do not have to adopt such similarly blunt policy options; doing so requires attention to streamlining policy, and incentivizing flexible and responsive technology solutions.

- *Improve and simplify the user experience for all stakeholders.*

The incredibly painful user experience during the pandemic highlights the need for simpler, clearer, functional UI technology. The program’s very technical policy nuances and historical technology underinvestment made user experience a lower-tier priority. The emphasis of much user experience improvement has been public, claimant-facing plain language efforts. Although important, other unemployment insurance stakeholders’ user experience needs should also be considered.

- *Give the Inspector General permanent statutory access to all state UI records for investigations.*

Another important reform is to provide the DOL Inspector General permanent access to all state unemployment benefit records (that is, including on state UI, and when payable, federal unemployment benefits). The IG has testified that one of the three biggest challenges his office faces in overseeing the UI program is a “lack of ongoing, timely, and complete access to UI claimant data and wage records” from state workforce agencies.²⁹

- *Update program reporting requirements.*

Data reporting issues confounded efforts to understand the number of people collecting key unemployment benefits early in the pandemic. As GAO concluded in November 2020, “Without an accurate accounting of the number of individuals who are relying on UI and PUA benefits in as close to real-time as possible, policy makers may be challenged to respond to the crisis at hand.”³⁰ Instead of relying on users to divine the meaning of its data, DOL should either more clearly label its weekly initial claims reports (such as for “weeks of benefits claimed”) or provide information that reflects the number of individuals claiming benefits—as the media regularly and inaccurately reported during the pandemic.

New emergency programs have their own reporting problems. Due to the PUA program’s operational intensity and technology challenges, it is perhaps understandable that states did not

²⁸ Allan Smith, “Handful of GOP senators threaten to delay Senate coronavirus bill over unemployment payments,” NBC News, March 25, 2020, <https://www.nbcnews.com/politics/congress/handful-gop-senators-threaten-delay-senate-coronavirus-bill-over-drafting-n1168766>

²⁹ U.S. Department of Labor Office of Inspector General Congressional Testimony, February 8, 2023, <https://waysandmeans.house.gov/wp-content/uploads/2023/02/DOL-OIG-IG-Turner-Written-Testimony-HWM-Final-02062023.pdf>

³⁰ Government Accountability Office, “Urgent Actions Needed to Better Ensure an Effective Federal Response,” November 2020, <https://www.gao.gov/assets/gao-21-191.pdf>

prioritize reporting early in the pandemic. However, the PUA data as reported in the ETA 902-P form shows that some states never fixed that gap. There are very real technical, environmental, and resource obstacles to accurate reporting in temporary programs, but there is also a cost to not getting any data. Limited or inaccurate data can limit the capacity of policymakers, program stakeholders, and state leaders to define success, identify problems, and make needed program changes.

On the technology front, states could be asked to report on fraud posture and defenses across a range of use cases. Regardless of solutions chosen, states should be able to demonstrate they have or are working toward an adaptive, flexible and responsive fraud detection and prevention posture.

Conclusion

Suggesting that benefit timeliness and benefit accuracy must be opposing goals is a false dichotomy. Benefit timeliness for eligible claimants is often most possible when fraud attacks are identified and prevented. Eligible claimants and taxpayers pay a steep price when policymakers do not take fraud prevention, detection, investigation and/or prosecution as seriously as the circumstances warrant. Learning the lessons of the pandemic unemployment insurance fraud experience is, at its core, defense of the unemployment insurance program's original intent: to provide a temporary partial income replacement safety net for workers who have lost work by no fault of their own. History does not need to repeat itself; all stakeholders have a vested interest in ensuring that fraud detection and prevention is an integral, permanent part of the program's mission.