APPENDIX B: AGENCY'S RESPONSE TO THE REPORT

U.S. Department of Labor

Employment and Training Administration
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Washington, D.C. 20210

May 26, 2021

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

FROM: SUZAN G. LEVINE
Principal Deputy Assistant Secretary

SUBJECT: Response to the Office of Inspector General Draft Audit Report Number 19-21-000-03-315, *COVID-19: States Struggled to Implement CARES Act Unemployment Insurance Programs*

The U.S. Department of Labor's (Department) Employment and Training Administration (ETA) greatly appreciates the opportunity to respond to the Office of Inspector General's (OIG) draft audit report and its recommendations.

The impact of the COVID-19 crisis hit the Unemployment Insurance (UI) system with unprecedented volume and velocity. This draft audit report speaks to the challenges faced by states in standing up the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act provisions from scratch in the face of those sudden increases. It also speaks to the profound and tragic impact of those challenges on many individuals who experienced significant delays in receiving benefits.

While this draft audit report zeroes in on those state challenges, their experiences, and the impact—especially as of the summer of 2020—it is also important to provide a balanced view that puts the situation in context and highlights and enables learning from some of the positive efforts made by both the states and the Department.

Specifically, it is important to acknowledge the states' remarkable accomplishments during the COVID-19 pandemic. Despite the challenging circumstances, states have helped ensure that nearly $700 billion of unemployment benefits have been provided to over 49 million workers during the public health emergency. As noted in the draft audit report, from enactment of the CARES Act to the first payment of an UI claim, for the states to implement these entirely new programs, it took, on average, 50 days for the Pandemic Emergency Unemployment Compensation (PEUC) program, 38 days for the Pandemic Unemployment Assistance (PUA) program, and 25 days for the Federal Pandemic Unemployment Compensation (FPUC) program.

States' ability to provide benefit payments within one to two months for a new, temporary UI program is a very impressive achievement given the extensive, complex requirements and activities that were necessary for implementation. For comparison purposes, a swift rollout of a new government benefit program—including the policy, product and operations—would be 30 – 48 months. States concurrently handled the launch of three new programs, which included the unprecedented PUA program that covered a population previously excluded by the UI program and for which no state UI processes were prepared to accommodate. This was all accomplished while the states were navigating a ten-fold claims volume increase, never before encountered in the program's 85-year history. Further compounding these challenges is the fact that the state UI agencies entered the pandemic after experiencing the lowest administrative funding in 50 years, impacting resources and staffing levels. State administrative funding is determined by claims workload. Prior to the pandemic, the UI programs saw historically low unemployment claims numbers at levels not seen since the early 1970s.

The draft audit report also raises the issue of timeliness of the Department's guidance. The UI programs created by the CARES Act are complex and sufficient time was necessary and essential for the Department to properly analyze and develop appropriate guidance. Despite these challenges, ETA published the initial guidance to states for implementing three key programs (FPUC, PEUC and PUA) within 14 days from the enactment of the CARES Act. This guidance was further enumerated through training and outreach, such as webinars conducted to explain the guidance and respond to questions from states.

For further context, as states began implementing these programs, new issues required revisions to existing program operating instructions, as well as development of additional guidance. The CARES Act did not include a program development period prior to implementation that would have provided the Department and states an opportunity to properly sequence guidance and operations of the key program requirements. We appreciate that this report recognizes a key lesson is to establish realistic expectations for policy makers and the public on timelines necessary to implement new complex benefit programs.

In addition, both the Department and states immediately changed their business operations—to remote telework procedures to mitigate the spread of COVID-19—and continued to administer UI programs while also managing the staff overseeing them who have been and continue to be personally and profoundly impacted by the COVID-19 pandemic. All this considered, both the achievements of states and the Department are even more noteworthy. Nevertheless, the Department recognizes the very real impact that implementation delays had and continue to have on unemployed workers and their families.

ETA also notes that it is an unrealistic expectation to apply the benefit payment timeliness standards applicable to the long-established and operating UI programs to these brand new programs, established in a remote, telework environment in a matter of weeks during the most significant crisis ever experienced by the UI program. Most states had challenges, due to already high claim volume, meeting this standard for the regular UI programs, let alone meeting this performance standard for these new UI programs.

It is also important to recognize the time period for activities and findings discussed in the draft audit report, as well as the fact that states have, since the early months of the COVID-19 pandemic, taken significant actions to implement additional integrity controls and tools and deploy staff to conduct fraud investigation activities. For example, states have significantly increased their usage of the resources to combat UI fraud available through the UI Integrity Center's Integrity Data Hub (IDH). At the onset of the COVID-19 pandemic (i.e., as of March 20, 2020), 21 states were using the Suspicious Actor Repository (SAR) and only three states were using the recently developed Multistate Cross-Match (MSCM). These tools allow states to leverage their investigative abilities by sharing information about suspected UI fraud. As of July 3, 2020, the usage of the SAR increased to 23 states and 13 states were using MSCM. Also, in July 2020, the IDH added an identity verification dataset (IDV) for state use. As of April 26, 2021, usage increased to 43 states using the SAR, 39 states using MSCM, and 29 states using IDV. ETA continues to identify, prioritize, and expand the datasets available through the IDH and actively promotes the use of the UI Integrity resources by states.

Fundamentally, at the same time this report enumerates the system shortfalls in this crisis, it is critical to recognize, learn from and amplify the improvements and innovations that states and the Department of Labor have made over time, especially since the summer of 2020.

Once again, ETA thanks the OIG for the opportunity to provide feedback. We look forward to continuing to collaborate with the OIG to combat imposter fraud and improper payments and to strengthen and improve the UI program.

Response to OIG Recommendations

ETA is committed to continuing and evolving its work with states to implement the OIG's recommendations. Below, please find ETA's responses to the OIG's recommendations in the draft audit report and proposed action steps to address them.

Recommendation 1: Conduct a study to assess the technological needs of the UI programs to determine the capabilities that need to be upgraded or replaced, the features necessary to effectively respond to rapid changes in the volume of claims in times of emergency or high unemployment, capabilities needed to ensure effective and equitable delivery of benefits, and the capabilities to minimize fraudulent activities.

ETA Response: ETA concurs with this recommendation. Section 9032 of the American Rescue Plan Act of 2021 (ARPA) provides funding for fraud detection and prevention and to promote equitable access and ensure timely payment of benefits to eligible workers. One of the allowable uses of the funds includes system-wide infrastructure investment and development. ETA has engaged the U.S. Digital Service at the Office of Management and Budget to work with states to develop a customer experience blueprint that will inform the need for future information technology (IT) improvements for the UI IT systems.

Recommendation 2: Continue to work with states to develop, operate, and maintain a modular set of technological capabilities to modernize the delivery of UI benefits that is sufficient to manage and process sudden spikes in claims volume during emergencies or high unemployment.

ETA Response: ETA concurs with this recommendation. Using the funding provided under Section 9032 of ARPA, the Department will work collaboratively with states to pilot modular modernized elements for various functions of UI systems, such as front-end claims-taking, identity and wage verification to validate claimant eligibility. These modular capabilities will be developed with a focus on scalability to ensure future capacity to increase resources on demand

3

to manage and process any sudden increases in claims volume and the agility to integrate other modular modernized components as they are developed and made available to states.

Recommendation 3: Assist states with claims, overpayment, and fraud reporting to create clear and accurate information. Then use the overpayment and fraud reporting to prioritize and assist states with fraud detection and recovery.

ETA Response: ETA concurs with this recommendation. ETA has completed the following actions to improve clear and accurate reporting by states:

- Issued comprehensive instructions for reporting on CARES Act programs. For example, Attachment II of UI Program Letter (UIPL) No. 16-20, Change 4,[1] provided detailed instructions for reporting on overpayment recoveries in the PUA program;
- Conducted webinars to amplify the guidance and to provide clarification and answers to questions regarding the reporting requirements for each program. As another example, following the issuance of UIPL No. 16-20, Change 4, ETA conducted a webinar on January 11, 2021, that also focused on the enhanced reporting requirements for the PUA program; and
- Implemented an automated menu-driven system for states to input and submit the CARES Act-related reports to ETA; each of these reports have customized edits to ensure reporting of accurate information.

ETA will take the following actions to improve state reporting of claims, overpayment, and fraud:

- Host an additional webinar in the third quarter of Fiscal Year (FY) 2021 focused on CARES Act program reporting; this webinar will identify common deficiencies and provide additional clarifications regarding the reporting instructions to states; and
- As part of its monitoring of states' implementation of CARES Act programs, continue to address reporting deficiencies and provide appropriate technical assistance and guidance on reporting requirements.

With regard to assisting states in fraud detection and recovery, ETA provided states with $200 million in funding to implement tools to combat fraud and to add integrity staff to conduct fraud prevention, detection, and investigatory activities through UIPL Nos. 28-20[2] and 28-20, Change 1,[3] published on August 31, 2020, and January 15, 2021, respectively. Each provided funding opportunities of $100 million to states for fraud prevention activities in the PUA and PEUC programs enacted under the CARES Act. ETA will continue to assist states in the efficient use of these resources, analyze data reported by states, and work with states to establish and strengthen fraud detection and recovery of improper payments.

ETA will provide technical assistance to states regarding the implementation of tools and other mechanisms for ensuring payment integrity, including the use of identity verification solutions

[1]Accessible at https://wdr.doleta.gov/directives/attach/UIPL/UIPL_16-20_Change_4.pdf.
[2] Accessible at https://wdr.doleta.gov/directives/attach/UIPL/UIPL_28-20.pdf.
[3] Accessible at https://wdr.doleta.gov/directives/attach/UIPL/UIPL_28-20_Change_1.pdf.

4

and data sources and tools currently available through the UI Integrity Center's IDH. In the first quarter of FY 2021, ETA worked with the UI Integrity Center to implement an IDH Prioritization Template, accompanied by tutorials and webinars, to assist states with analyzing and prioritizing the results and leads returned by the IDH on potential fraud cases. This resource provides states with strategies to mitigate false positives, efficiently use IDH results and prioritize workload, and effectively deploy investigative resources.

ETA will continue to actively work to identify tools and expand the IDH datasets to enhance the fraud prevention and detection resources available to states.

Recommendation 4: Develop standards for providing clear and reasonable timeframes to implement temporary programs to establish expectations for prompt benefit payments to claimants.

ETA Response: ETA concurs with this recommendation. In its recent guidance, ETA has started providing clear and reasonable time frames for states to implement new program features or changes in program requirements to establish expectations for benefit payments to claimants. As an example, in Section 3.a., page 2, and Section 4.b.i, page 9, of UIPL No. 16-20, Change 5,[4] issued on February 25, 2021, the Department advised that it "expects many states will need until the end of March or later to have the new COVID-19 related reasons in place." Another example is found in Section 3.a, page 2 of UIPL No. 14-21,[5] issued on March 15, 2021, where the Department advises that it "expects many states will need until the middle of April or later to implement the new provisions and begin notifying individuals." ETA will continue to provide the public clear and reasonable time frames, to the extent possible, to set realistic expectations for states to implement future program changes and/or extensions. Additionally, for future legislation, ETA will proactively work with legislators to incorporate in our technical assistance insights into operational timelines so that legislation, where possible, can include these types of timing expectations.

[4]Accessible at https://wdr.doleta.gov/directives/attach/UIPL/UIPL_16-20_Change_5.pdf.
[5]Accessible at https://wdr.doleta.gov/directives/attach/UIPL/UIPL_14-21.pdf.

5