Attachment

U.S. Department of Labor

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

July 18, 2022

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

FROM: BRENT PARTON
Acting Assistant Secretary for Employment and Training

SUBJECT: Response to the Office of Inspector General Alert Memorandum: *The Employment and Training Administration Needs to Ensure State Workforce Agencies Report Activities Related to 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) Alert Memorandum, referenced above, and its recommendations. ETA is committed to ensuring that states successfully and effectively use taxpayers' dollars to support the Unemployment Insurance (UI) system. As part of our work, ETA has and continues to provide technical assistance to states to ensure compliance with the terms and conditions of their grant awards, including but not limited to reporting requirements. ETA agrees with the OIG that complete and accurate reporting is important to the administration and oversight of the temporary unemployment compensation programs created under the Coronavirus Aid, Relief, and Economic Security (CARES) Act as amended.

ETA further appreciates the OIG's recognition that there are legitimate reasons for states to have no overpayment activities to report in the first two quarters of the existence of these new programs. For example, as indicated in the OIG's audit report titled *COVID-19: States Struggled to Implement CARES Act Unemployment Insurance Programs*, No. 19-21-004-03-315, it took states on average 38 days to make their first Pandemic Unemployment Assistance (PUA) payments (pages 3-4 of the Report). Exhibit 2 of the Report (pages 23-24) indicates that several states taking over 38 days, including some states taking 52, 60, 61, and 101 days to make their first PUA payment. Even at the average timeframe of 38 days, states would not be able to make a payment, then identify and investigate an issue, send notices, provide an opportunity for a hearing and to make a determination, allow for an appeal of the determination if pursued by a party, and then establish an overpayment, all activities that needs to occur before the state would be required to report an overpayment established. It is unrealistic to expect for states to complete these activities in the first reporting period or even for all states to do so in the first two reporting periods.

ETA recognizes that there are states that are failing to meet the reporting requirements for the temporary CARES Act programs. While ETA agrees with the OIG about the importance of the issues identified in this report and its recommendations, ETA wishes to note the numerous errors in the report – specifically regarding some of the states erroneously identified in the report. ETA has previously explained to the OIG that the UI Reporting system is updated on a daily basis with new/revised reports submitted by states, and ETA is unable to validate the data on state reports for the timeframe provided in the OIG's draft report. After identifying several errors in prior drafts of the tables included in this OIG report, ETA provided spreadsheets showing the states that failed to report or who reported only zeros as activities in the relevant reports. This data was as of April 14, 2022. Unfortunately, the OIG chose not to use the information provided by ETA. We note the following as examples of issues with some of the data reported in the various tables included in this latest report:

- Table 1 in the body of the report provides an inaccurate impression that all 53 states are not reporting PUA activity, 51 states are not reporting for the Federal Pandemic Unemployment Compensation (FPUC) program, and 30 states are not reporting for the Pandemic Emergency Unemployment Compensation (PEUC) program. The reports indicated in Table 1 must be submitted by states either quarterly or monthly. Therefore, if a state failed to submit a report or reported zeros for even one reporting period, then they are included in this table. As discussed above, there are legitimate reasons for a state to not have reported or have accurately reported zeros for activity in the early reporting periods for these programs.
- Table 1, Appendix E (No ETA 227 reports for FPUC program), does not reflect the data ETA's Office of Unemployment Insurance (OUI) provided from the UI Reporting system. Specifically, Texas submitted a report for each quarter and should not be listed. Additionally, the District of Columbia submitted a report for the quarters ending 6/30/2021 and 9/30/2021, and Nebraska submitted a report for the quarter ending 9/30/2021.
- Table 2, Appendix E (Only reporting zeros for overpayments in ETA 227 for FPUC), does not align with information in ETA's records. For example, ETA's records indicated that Delaware, Georgia, Oklahoma, and Virginia should not be included in this table.
- Table 3, Appendix E (No ETA 227 reports for PEUC program), includes states that have submitted reports. Specifically, Florida, Nebraska, Alabama, and Kentucky have submitted reports and should not be included in this table. Also, Colorado reported for the quarter ending 3/31/2021.
- Table 4, Appendix E (Only reporting zeros for overpayments in ETA 227 for PEUC), does not align with information in ETA's records. For example, Kentucky reported data other than zeroes for the period ending 6/30/2021 and Pennsylvania reported data other than zeros for the period ending 9/30/2021.
- Table 5, Appendix E (No ETA 227 reports for MEUC) and Table 6 (Only reporting zeros for overpayment activities in the ETA 227 for MEUC), there are several states in these tables that have submitted reports and with data other than zeros. Further, many of these states were not reporting overpayment activity for some of the earlier periods because they were delayed in making initial payments under the MEUC program.
- Table 7, Appendix E (States reporting zero overpayment activities on the ETA 902-P report for PUA), ETA's review of the data does not align with the information provided in this table. This table incorrectly includes many states for time periods in which they did not report zeros. Specifically, ETA notes the following:
  - For 6/30/2020, Michigan and New Jersey should not be included
  - For 9/30/2020, New Jersey, Utah, and Wisconsin should not be included

- For 12/31/2020, New Jersey should not be included
- For 3/31/2021, Arkansas and New Jersey should not be included
- For 6/30/2021, Arkansas, California, New Jersey, and Wisconsin should not be included
- For 9/30/2021, Arkansas, New Jersey, and Utah should not be included

- Table in Appendix G (Listing states by month that did not report Benefit Payment Account activity in the ETA 2112 report), some of the states listed does not align with ETA records. Specifically, ETA's records reflect that New Hampshire submitted the ETA 2112 report for 6/30/2020; Louisiana submitted reports for 5/31/2020 through 8/30/2020, and Puerto Rico submitted reports for 6/30/2020 through 6/30/2021.

Again, ETA thanks the OIG for the opportunity to provide feedback.

Response to the OIG Recommendations

Below are the OIG's recommendations contained in the draft Alert Memorandum, followed by ETA's response and proposed action steps to address the recommendations.

Recommendation # 1: Continue to identify states that have not complied with ETA's reporting requirements for CARES Act UI programs and work with them to ensure missing reports and information are submitted before the commencement of the Department's FY 2022 financial statement audit.

ETA Response: ETA concurs with this recommendation. ETA's OUI and Regional Offices continue to identify states that have not complied with ETA's reporting requirements and will work with these states to obtain missing reports while also providing targeted technical assistance (as needed) to states to ensure future reports are submitted timely. In addition, ETA plans to take the following actions including:

- Conducting a training webinar with states on July 20, 2022, focused on accurately submitting ETA 227 and ETA 902-P reports for the CARES Act programs.
- Providing additional CARES Act administrative funding to support integrity-related activities, including properly submitting required ETA reports.
- Emphasizing the importance of ensuring complete and accurate reporting of ETA required reports as a National Priority in the forthcoming guidance for the Fiscal Year (FY) 2023 UI State Quality Service Plan (SQSP). States that have not provided complete and accurate reports will be required to include, in the SQSP Narrative, information on their plans, including timeframes and milestones, for addressing reporting issues and ensuring appropriate reporting in FY 2023. Also, states that have previously transmitted reports with zeros for data for overpayment activities (when the reporting of zeros is not correct) must amend the reports to include accurate data. Furthermore, ETA is requiring states with inaccurate and/or incomplete reporting on overpayment reports, including the ETA 227 reports (Overpayment Detection and Recovery Activities), and the ETA 902-P report (Pandemic Unemployment Assistance) must submit their action plans to correct the reporting issues in their Integrity Action Plan (IAP) as part of their FY 2023 SQSP submission.

- Continuing to offer and provide one-on-one technical assistance, (such as workflow and other programmatic issues) to states to work through reporting challenges.

Recommendation # 2: Continue to verify the accuracy of reports that cite no activity and ensure corrections are made where warranted.

ETA Response: ETA concurs with this recommendation. As stated in ETA's response to Recommendation # 1 above, ETA is planning various activities to ensure complete and accurate state reporting when warranted, including:

- Emphasizing reporting accuracy in the forthcoming SQSP guidance and requiring states report actions and timelines for correcting reporting issues as part of their annual IAP and SQSP submission.
- Scheduling a training webinar for states to provide guidance on how to accurately submit reports
- Providing additional funding that states can use for reporting activities.
- Continuing to offer and provide one-on-one technical assistance, (such as workflow and other programmatic issues) to states to work through reporting challenges.