Agency Priority Goal Action Plan

Decrease Unemployment Insurance Improper Payments

Goal Leaders:

John Pallasch, Assistant Secretary for Employment and Training

Gay Gilbert, Administrator, Office of Unemployment Insurance

Performance.gov

Fiscal Year 2020, Quarter 4

Overview

<u>Goal Statement</u>
- o By September 30, 2021, the Unemployment Insurance (UI) improper payment rate will be 9.0 percent.
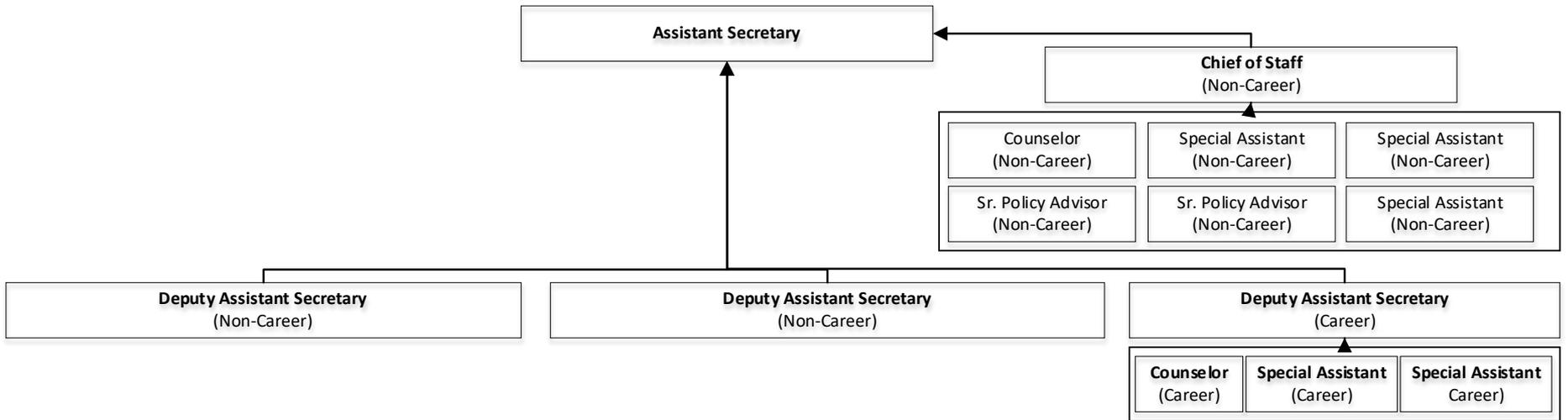
<u>Background</u>
- o The UI program is a federal-state partnership. Although the Department of Labor (DOL) has oversight responsibility for the program nationally, each of the 53 states/territories operates and administers its own UI programs in accordance with federal and state laws and pays benefits from the UI taxes collected from employers. Only states can directly prevent, detect, and recover improper payments. Additional information about the program is provided at the end of this document.
- o Since 2015, the UI improper payment rate has been well above the 10 percent threshold and steadily increasing. For 2018, the DOL reported an estimated improper payment rate of 13.05 percent (or $3.74 billion) of UI benefits paid. However, in 2019, the Department made considerable progress as the estimated UI improper payment rate decreased to 10.61 percent (or $2.85 billion) of UI benefits paid, a 19 percent reduction in the improper payment rate.

Overview, Cont'd.

Background

- o The UI program has three primary root causes of improper payments:
    - Work Search — failure of claimants to comply with state work search requirements;
    - Benefit Year Earnings — payments to individuals who continue to claim benefits after they have returned to work and fail to report earnings; and
    - Separations — failure of employers or their third-party administrators to provide timely and accurate information on the reason for an individual's separation from employment.
- o The Employment and Training Administration (ETA) continues to aggressively work with states to implement a dynamic Integrity Strategic Plan that includes strategies and actions to address the leading root causes of UI improper payments and fraud. The plan is continuously updated and evolves as new corrective actions and strategies are identified.
- o Given the COVID-19 public health emergency and the three new unemployment insurance programs contained in the Coronavirus Aid, Relief, and Economic Security (CARES) Act, the UI program has adjusted and reinforced its existing focus on program integrity and improper payments.

Leadership

Assistant Secretary	**Chief of Staff** (Non-Career)

Counselor (Non-Career)	Special Assistant (Non-Career)	Special Assistant (Non-Career)
Sr. Policy Advisor (Non-Career)	Sr. Policy Advisor (Non-Career)	Special Assistant (Non-Career)

Deputy Assistant Secretary (Non-Career)	**Deputy Assistant Secretary** (Non-Career)	**Deputy Assistant Secretary** (Career)

Counselor (Career)	Special Assistant (Career)	Special Assistant Career)

Philadelphia/ Boston Regional Administrator (Career SES) Regional Administrator (Boston Deputy) **Atlanta** Regional Administrator (Career SES) **Dallas/San Francisco** Regional Administrator (Career SES) Regional Administrator (San Francisco Deputy) **Chicago** Regional Administrator (Career SES)	**Office of Trade Adjustment Assistance** Administrator (Career SES) Vacant, Deputy	**Office of Unemployment Insurance** Administrator (Career SES) Deputy	**Office of Workforce Investment Administrator** (Career SES) Vacant, Deputy	**Office of Financial Administration** Administrator (Career SES) Deputy	**Office of Management & Administrative Services** Administrator (Career SES) Deputy	**Office of Grants Management** Administrator (Career SES) Deputy	**Office of Policy, Development & Research** Administrator (Career SES) Principal Deputy Administrator (Career SES) Acting Deputy	**Shared Services**	**Office of Apprenticeship** Administrator (Career SES) Deputy, Operations & Regional Management Deputy, Policy & National Office Management	**Office of Foreign Labor Certification** Administrator (Career SES) Deputy	**Office of Job Corps** Acting Administrator (Career SES) Deputy (Career SES) Vacant, Deputy

Strategies

By September 30, 2021:

o   ETA will aggressively work with states to identify and implement strategies to prevent and detect UI improper payments and fraud and reduce the UI improper payment rate.

o   Targeted technical assistance will continue to be provided to identified "High-Rate/High-Impact" states that have high improper payment rates and significantly affect the national UI improper payment rate.

o   The UI Integrity Center will develop and provide tools, resources, and consultation services to states aimed at preventing and detecting fraud and identity theft, and recovering improper payments.

o   All states are required to submit Integrity Action Plans as part of the biennial State Quality Service Plan with integrity strategies addressing state-specific root causes of improper payments.

o   The Integrity Data Hub (IDH) will expand the data sources available for state cross- matching including a new Identity Verification (IDV) data source, multi-state claims data, Account Verification Services (AVS), and prisoner data.

o   Increase states' participation by actively promoting the use of IDH as an effective tool to prevent and detect fraud and identity theft through guidance and webinars, and by providing funding for implementation.

o   The UI National Integrity Online Training Academy training modules and certifications will be accessed by state staff to support improved program integrity and reduction in UI fraud and improper payments.

Strategies, Cont'd.

By September 30, 2021:

- o A webinar series for state staff will highlight effective state strategies and promote state best practices for adoption and replication.

- o High-level state leadership engagement will continue to ensure state focus on developing and implementing strategies to reduce the UI improper payment rate.

- o States will implement new messaging tools using behavioral science techniques designed to improve improper payment root causes.

- o The UI Integrity Center's Integrity Knowledge Exchange will be promoted to states as a resource for program integrity information, tools, and promising practices. A series of webinars will be hosted annually by the UI Integrity Center to highlight available resources and feature state best practices.

- o Implementation/expansion of the State Information Data Exchange System (SIDES) will be actively marketed and promoted. Increase state and employer/Third Party Administrator participation in the use of additional SIDES exchanges by at least 15 percent.

- o A model state work search law and framework that supports rapid reemployment and claimant compliance with targeted, aggressive work search requirements, including documentation, will be rolled out and promoted.

- o Pursue dedicated state funding in the FY 2021 budget to address top causes of UI improper payments–work search and benefit year earnings.

Summary of Progress – FY 2020, Quarter 4

o   The impact of COVID-19 on the UI system may delay the attainment of this goal. States continue to divert staff and information technology resources to address the unprecedented claims workload and administer the UI programs under the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020. In addition, states have refocused resources to combat a significant increase in UI fraud. Therefore, the Department anticipates delays in meeting the original milestones for some of the strategies planned, and targets set for the UI improper payment rate for FYs 2020 and 2021.

o   Two states were removed from the High Rate/High Impact designation due to progress made in reducing and sustaining an improper payment rate below 10 percent for two consecutive quarters. Due to the Department's and states' focus on administering the new CARES Act UI programs and the dedicated resources to prevent and detect fraud, ETA continued the temporary suspension of quarterly calls with each of the designated High-Rate/High-Impact states to monitor their performance and progress in implementing identified strategies. These calls will resume in the first quarter of FY 2021.

o   The UI Integrity Center's intensive services to High Rate/High Impact states remained paused during Quarter 4 as states continued to focus on administering the CARES Act UI programs and combatting increased UI fraud. These efforts will restart in the first quarter of FY 2021.

o   The UI Integrity Center's intensive services to High Rate/High Impact states will resume in the first quarter of FY 2021.

Summary of Progress – FY 2020, Quarter 4, Cont'd.

o The UI Integrity Center continued providing virtual state consultation services to states to combat fraud and identity theft. Twelve states are receiving virtual technical assistance and consultation services to implement strategies to prevent and reduce fraud. In FY 2020, the UI Integrity Center provided onsite targeted and intensive integrity consultation services to a total of 29 states.

o The model state work search law/framework and Training and Employment Notice (TEN) No. 17- 19 was issued on February 10, 2020. Letters from the Assistant Secretary also transmitted these documents to Administrators of State UI Agencies.

o Issuance of letters from the Deputy Secretary to each of the state governors to inform them of their state's improper payment rate, share updates on DOL's activities, and request their continued diligence in adopting effective strategies to prevent, detect, and recover UI improper and fraudulent payments has been postponed due to the Department's and states' focus on implementing the new UI programs under the CARES Act.

o In June 2020, the UI Integrity Center completed a webcast on the recommended operating procedures for new hire cross-matching and showcased state best practices. This webcast is accessible to state staff through the UI Integrity Center library. In September 2020, ETA issued TEN No. 05-20, to remind states on the effective use of National Directory of New Hires (NDNH) and State Directory of New Hires (SDNH) and information regarding the availability of the webcast.

Summary of Progress – FY 2020, Quarter 4, Cont'd.

o In FY 2020, The UI Integrity Center enhanced IDH functionality and actively worked with states to implement the IDH datasets to support prevention and detection of improper payments, fraud, and identity theft. In addition, ETA issued guidance on August 31, 2020, promoting states' use of the IDH. See UI Program Letter (UIPL) No. 28-20, TEN No. 03-20, and TEN No. 04-20. The following activities occurred as a result of the combined efforts.

  o Multi-state cross-match (MSCM) IDH functionality became available and was enhanced to process new UI claim types for cross-matching, including the Pandemic Unemployment Assistance program. Currently, 24 states are utilizing MSCM.

  o Forty-eight states/territories have executed an IDH participation agreement and 5 are in process.

  o Thirty states have implemented the Suspicious Actor Repository cross-match through the IDH, preventing an estimated $32.26 million in improper payments since its inception in October, 2017.

  o The IDV solution was made available to states in July 2020. At the end of FY 2020, 11 states had implemented IDV. Currently, 13 states are using the IDV solution with several other states testing connections for implementation.

  o All states/territories, ETA National and Regional Office staff, and the Department's Office of Inspector General (OIG) have access to the Fraud Alert System in the IDH. In FY 2020, there were 191 alerts submitted through the Fraud Alert System.

Summary of Progress – FY 2020, Quarter 4, Cont'd.

o   UI Integrity Center developed and disseminated recommendations and shared best practices for states' use during the past quarter including a technical guide to states, outlining specific programmatic best practices for preventing and detecting identity theft, verifying identity, and strengthening internal security; a guide for states on the Role of Financial Institution in UI Fraud Detection and Recovery; and best practices and processes for handling hijacked UI claims. In addition, the UI Integrity Center continues to host regular calls with states to identify emerging fraud trends and discuss solutions to increase prevention and detection.

o   The estimated UI improper payment rate for the 12-month period ending June 30, 2020, is 9.17 percent and is below the established FY 2020 target of 9.5 percent, and trending well below the 10.61 percent reported for the 12-month period ending June 30, 2019. ETA continues to work collaboratively with states and the UI Integrity Center to implement the comprehensive strategic plan to prevent improper and fraudulent payments and reduce the UI improper payment rate.

Key Milestones

Milestone Summary					
Key Milestone	Milestone Due Date	Milestone Status	Change from last quarter	Owner	Comments
High Rate-High Impact states will continue to receive intensive technical assistance services provided by the UI Integrity Center	Varies	Paused	N/A	ETA	Technical Assistance services are delayed due to state focus on UI program activities under the CARES Act. Two states were removed from the High Rate-High Impact designation due to reducing their improper payment rate below 10 percent.
The UI Integrity Center will provide consultation services and targeted technical assistance to states to prevent and detect fraud, and recover improper payments	Varies	In Progress	N/A	ETA	Currently, 12 states are receiving virtual fraud technical assistance and consultation services, and a total of 29 states received onsite integrity focused consultation services in FY 2020.
A Training and Employment Notice will transmit the model state work search law and framework to states	2/28/2020	Complete	N/A	ETA	N/A
Governors will receive letters from the Deputy Secretary providing a status on their state's efforts to reduce its UI improper payment rate	3/31/2020	Cancelled	Changed "Milestone Status" from "Postponed" to "Cancelled"	ETA	Cancelled per the FY 2020 Operating Plan Addendum, nothing further to report for Q4.
Webinars will be offered to states on the recommended operating procedures for new hire cross-matching and will showcase state best practices. Provide ongoing technical assistance to states on the National Directory of New Hires (NDNH) cross-match recommended operating procedures	9/30/2020	Complete	Changed "Milestone Status" from "In Progress" to "Complete"	ETA	Completed the webcast in June, 2020. TEN No. 05-20, was released on September 24, 2020, to remind states of the effective use of NDNH and SDNH and announce the availability of the NDNH webcast.

Key Milestones

Milestone Summary					
Key Milestone	Milestone Due Date	Milestone Status	Change from last quarter	Owner	Comments
Promote states' use of the Integrity Data Hub, Fraud Alert system and encourage participation in the conference calls conducted by the UI Integrity Center to discuss emerging fraud schemes and strategies to address them	9/30/2021	In Process	Changed "Milestone Status" from "In Progress" to "Ongoing" Changed "Milestone Due Date" from 12/31/2020 to 9/30/2021	ETA	UI Integrity Center continues to conduct weekly conference calls to discuss fraud schemes and strategies to address them. On August 31, 2020, ETA issued UIPL No. 28-20, TEN No. 03-20, and TEN No. 04-20, encouraging states' use of the IDH, participation in the Fraud Alert System, and providing additional funding to improve fraud prevention and detection in the CARES Act UI Programs. All 53 states/territories, ETA Regional and National Offices, and OIG have access to the Fraud Alert System and a total of 191 alerts were submitted in FY 2020.
A minimum of nine states will implement an identity verification tool deployed through the UI Integrity Center's Integrity Data Hub with the goal of all states using the IDH by September 30, 2021.	9/30/2020	In Process		ETA	11 states implemented IDV in FY 2020, and 13 states were using the IDV by October 9, 2020.
A toolkit featuring effective work search behavioral strategies will be finalized and rolled out to states	6/30/2021	In Progress	N/A	ETA	N/A
A SIDES training seminar will be conducted for states, employers, and third- party administrators to increase state and employer/third-party administrator participation in the use of additional SIDES exchanges by at least 15 percent	6/30/2021	In Progress	N/A	ETA	N/A

Key Milestones

Milestone Summary					
Key Milestone	Milestone Due Date	Milestone Status	Change from last quarter	Owner	Comments
A webinar will be hosted for states featuring promising practices on the use of SAR and IDV solution	9/30/2021	In Progress	N/A	ETA	N/A
At least 30 states will be actively transmitting and receiving data through the Suspicious Actor Repository (SAR) exchange deployed through the Integrity Data Hub	9/30/2021	In Progress	N/A	ETA	Thirty states have implemented the SAR cross-match through the IDH and 24 states are regular users.
All states will have implemented the IDV solution deployed through the IDH	9/30/2021	In Progress	N/A	ETA	As of October 9, 2020, 13 states have implemented the IDV. Onboarding of additional states is in progress.
Quarterly calls will be held to monitor progress with each of the High Rate-High Impact states	9/30/2021	Paused	Changed "Milestone Status" from "In Progress" to "Paused" Extended "Milestone Due Date" to 9/30/2021	ETA	Q3 and Q4 calls were suspended, resuming calls in the first quarter of FY 2021.
A series of webinars will be hosted by the UI Integrity Center through the Integrity Knowledge Exchange Library to highlight available resources and feature state best practices	9/30/2021	Paused	Changed the "Milestone Status" from "In Progress" to "Paused" Extended "Milestone Due Date" to 9/30/2021	ETA	The webinar series was delayed due to the UI Integrity Center's focus on addressing the significant increase in UI fraud in the CARES Act UI Programs. Instead of webinars the UI Integrity Center created three separate resources providing recommendations and best practices for states to use in combatting fraud and identity theft, working with financial institutions for fraud detection, and handling hijacked UI claims.

Key Indicators

Improper Payment Rate*

Baseline Results (FY 2019):   10.61%

Target Goal for FY 2020:   9.5%

Target Goal for FY 2021:   9.0%

FY 2020 – Q1 Results: 10.05%**   FY 2021 – Q1 Results: TBD

FY 2020 – Q2 Results: 9.86%***   FY 2021 – Q2 Results: TBD

FY 2020 – Q3 Results: 9.55%****   FY 2021 – Q3 Results: TBD

FY 2020 – Q4 Results: 9.17%*****   FY 2021 – Q4 Results: TBD

*All results are estimated through the Benefit Accuracy Measurement survey and reflect a 12-month reporting period.

**Q1 results reflect 12-month reporting period ending September 30, 2019.

***Q2 results reflect 12-month reporting period ending December 31, 2019.

****Q3 results reflect 12-month reporting period ending March 31, 2020.

*****Q4 results reflect 12-month reporting period ending June 30, 2020.

Data Accuracy and Reliability

- o **Means used to verify and validate measured values:** State Benefit Accuracy Measurement (BAM) staff investigate the accuracy of each paid week sampled to determine if all eligibility requirements are met and the claim is properly paid. These investigation outcomes are further validated by state BAM supervisors. Additionally, ETA UI staff (Regional and National) conduct state peer reviews of state audits to ensure the accuracy of the state BAM audit results.

- o **Sources for the data:** The BAM statistical survey is used to estimate the improper payment rate at the national and state levels. State BAM samples are randomly selected from the population of State UI, Unemployment Compensation for Federal Employees, and Unemployment Compensation for Ex-Servicemembers payments issued by the state each week. Based on the results of the state BAM audits, the estimated improper payment rates are computed nationally and by state. The amounts that were paid, overpaid, and underpaid are coded for each sample payment and weighted to represent the population of UI claims for all 52 weekly samples in all 52 state workforce agencies participating in BAM (U.S. Virgin Islands is excluded due to its size).

- o **Level of accuracy required for the intended use of the data:** ETA waits until states complete 99 percent of the sampled cases prior to generating the annual improper payment results. Additionally, as required by the Office of Management and Budget, ETA follows the requirement of a 95 percent confidence interval of no more than +/- 3 percent for the estimated improper payment rate.

Data Accuracy and Reliability, Cont'd.

o **Limitations to the data at the required level of accuracy:** Estimates based on BAM data are subject to sampling and non-sampling errors that can affect survey data. Sampling error reflects the variability of the estimate due to the fact that only a portion of the population is sampled and audited. Non-sampling error includes operational issues such as failure to include all UI payments in the sampling frame, misapplication of UI law and policy by the BAM auditors, and data entry errors.

o **How the agency has compensated for such limitations, if needed, to reach the required level of accuracy:** ETA has implemented several quality assurance procedures within the BAM program for reducing non-sampling errors, such as alerts for incomplete or improper sampling frames, system edits to identify interpretation, and/or data entry errors to end users recording audit results into the system.

Additional Information

UI Integrity Center

ETA collaborates with the UI Integrity Center to collect and disseminate state best practices, develop tools and resources to support reduction of the UI improper payment rate, provide consultative services to states to develop strategies to reduce fraud and improper payments, operate the IDH that provides states with access to data sources to increase prevention and detection of improper payments and fraud, and provide on-line integrity training for state staff.

Federal Policies and Guidance

Under the Social Security Act and the Federal Unemployment Tax Act, the UI program is established as a joint federal-state program. States are required to administer the UI program in conformity with federal requirements including the prevention, detection, and recovery of improperly paid UI benefits.

The requirement to reduce improper payments in the UI program is established in the following laws, policies, and guidance:

- o Payment Integrity Information Act of 2019
- o Improper Payment Information Act of 2002, 31 U.S.C. 3321;
- o Improper Payment Elimination and Recovery Act of 2010, 31 U.S.C. 3301;
- o Improper Payment Elimination and Recovery Improvement Act of 2012, 31 U.S.C. 3321; and
- o Office of Management and Budget (OMB) Memorandum M-18-20, *Requirements for Payment Integrity Improvement, Appendix C to OMB Circular 123* (June 26, 2018).

Additional Information, Cont'd.

<u>Structural Barriers and Challenges</u>

A number of statutory requirements impose challenges to reducing UI improper payments:

o **Federal-State Partnership:** Each state administers the UI program according to its own laws and policies, which must conform to broad federal requirements. Improper payment rates often reflect differences in state laws. Additionally, states have bottom-line authority to set operational priorities. DOL has limited authority to ensure states use their funding to pursue improper payment rate reduction activities.

o **Statutory requirements to pay "when due" and to provide due process prior to stopping benefit payments:** Federal UI law includes structural, but essential, program features that substantially contribute to the UI improper payment rate. Section 303(a)(1) of the Social Security Act requires UI benefit payments to be made "when due" and prohibits states from suspending payments until an official determination has been made that payments are no longer due. This statutory structural feature legally requires states to make payments based upon available evidence that may be later detected as improper as a result of obtaining new information. When a claimant has been initially determined eligible and is in continued claims status, there is a presumption of continued eligibility until a claimant is provided due process, which requires notice and the opportunity to be heard prior to stopping payment of benefits.

Additional Information, Cont'd.

o **Delays in receiving separation information:** The requirement to pay "when due" also creates improper payments at the time of initial claim for benefits when states must request information from employers on the reason for the applicant's separation from employment. If states are unable to get timely and accurate information from employers, they are legally required to make a determination on the available information and proceed to make payments if the applicant is found otherwise eligible.

o **Lags in available data to prevent improper payments:** State and national directories of new hires are the primary data sources to determine when a claimant has returned to work. This data is not available for at least six weeks, making it impossible to prevent many improper payments.

Additional Information, Cont'd.

o **State Resource Priorities and Capacity:** In recent years state staffing resources have been negatively impacted in two ways. First, administrative funding for states' UI program operations is based on projected workloads and, most importantly, weeks claimed. The decline in workload for the extended period prior to COVID-19 resulted in a reduction of administration funding, creating a challenge for states to adequately staff their UI program operations. This lack of capacity significantly impacted states' ability to manage program integrity operations that are staff intensive, such as being able to independently validate cross-match hits and conduct random work search audits. Second, state agencies' employees who leave through normal attrition or retirements are often replaced by less experienced staff. Budget pressures have resulted in reduced training, further contributing to the decrease in skilled staff who can accurately administer the relatively complex UI program. With the spike in claims due to COVID-19, state administrative funding is significantly increasing, but states continue to struggle with capacity due to:

  o Limited experienced staff;

  o Rapid onboarding of new staff with minimal training;

  o Unprecedented claims workload;

  o Implementation and administration of the CARES Act UI Programs; and

  o Reallocation of staff to process claims and combat an extraordinary increase in fraudulent activity targeting all UI programs.

Additional Information, Cont'd.

- o **Information Technology (IT) Capacity:** State IT capacity has been strained by the decline in program administration funding provided to states to effectively operate the UI program, and further strained by implementation and administration of the new CARES Act UI programs. Additionally, as a result of states failure or inability to implement modernized systems, many state systems are several decades old and cannot be easily adapted to new improper payment detection methods, such as generating follow-up communications with claimants and employers to verify claim information. With the increase in UI claims and workload due to the pandemic, state UI agencies face competing IT priorities that are critical and required for their effective administration of their UI programs, including:
  - o Strengthening claimant identity verification to prevent identity theft;
  - o Incorporating advanced fraud prevention and detection tools;
  - o Paying benefits accurately and timely for the various UI programs;
  - o Expanding bandwidth and infrastructure for state staff to work remotely and accommodate the increase in claimant/employer online services;
  - o Ensuring appropriate internal controls and IT security of UI systems; and,
  - o Improving UI call center infrastructure to handle the influx of UI calls.

  ETA will continue to work collaboratively with the Department's Office of the Chief Information Officer and the UI Information Technology Support Center to explore, leverage, and support the implementation of technology solutions for states that improve overall program integrity and payment accuracy and reduce improper payments and fraud.

Additional Information, Cont'd.

<u>UI Integrity Legislative Proposals</u>

Since FY 2018, the Department has included legislative proposals to improve UI system integrity in each of the President's budget requests. The proposals include the following:

- o Require states to use the State Information Data Exchange System;
- o Require states to cross-match against the NDNH;
- o Allow the Secretary of Labor to require states to implement corrective actions related to performance and integrity;
- o Require states to cross-match with the Social Security Administration's prisoner database or other repositories of prisoner information;
- o Allow states to retain five percent of UI overpayment recoveries for program integrity use; and
- o Require states to use UI penalty and interest collections solely for UI administration.

In addition, the FY 2020 and FY 2021 President's Budget included additional statutory proposals that would support state access to more effective data sources and tools to prevent and detect improper payments, including a new proposal to require states to use the IDH developed by the UI Integrity Center. The FY 2021 President's Budget also includes a $90 million request to provide grants to states to:

- o Implement information technology solutions to facilitate the reporting and verification of work search by claimants and automated adjudication relating to such reporting and activities, permissible under Federal law.
- o Provide for validation and adjudication activities of cross matches with data sources that support the prevention of improper payments due to the failure of claimants to report accurate and timely information regarding their earnings or return to work.

To date, none of these legislative proposals has been enacted.