United States Government Accountability Office

Report to Congressional Addressees

June 2022

UNEMPLOYMENT INSURANCE

Transformation Needed to Address Program Design, Infrastructure, and Integrity Risks

GAO-22-105162

GAO Highlights

Highlights of GAO-22-105162, a report to congressional addressees

June 2022

UNEMPLOYMENT INSURANCE

Transformation Needed to Address Program Design, Infrastructure, and Integrity Risks

Why GAO Did This Study

A high-risk designation is intended to help spur progress in areas needing transformation. The UI system has faced long-standing challenges with effective service delivery and program integrity. The historic levels of job loss during the COVID-19 pandemic worsened existing challenges. Congress created four new UI programs to support workers during the pandemic. However, unprecedented demand for benefits and the need to quickly implement the new programs presented challenges for states and increased risks of improper payments, including from fraud.

This report examines (1) challenges in responding to the needs of unemployed workers and economic changes; (2) risks of improper payments, including from fraud; (3) the extent to which UI experienced impaired performance and financial loss; and (4) potential options for UI transformation suggested by stakeholder panels.

GAO reviewed audit products and relevant federal laws and guidance; reviewed literature to identify UI-related challenges and risks; analyzed improper payment reporting; convened a panel of 16 stakeholders with UI subject-matter expertise; and compared findings against GAO criteria for designating programs as high risk.

What GAO Recommends

GAO recommends that DOL develop and implement a plan for transforming UI that meets GAO's high-risk criteria for transformations. DOL agreed with the recommendation and described actions it is taking to address it.

View GAO-22-105162. For more information, contact Tom Costa at (202) 512-4769 or costat@gao.gov, or Mary Hannah Padilla at (202) 512-5683 or padillah@gao.gov .

What GAO Found

GAO and others have reported that challenges with Unemployment Insurance (UI) administration have affected states' ability to effectively meet the needs of unemployed workers, both historically and during times of economic downturn—such as the COVID-19 pandemic. Reported challenges with program design and variation in how states administer UI have contributed to declining access and disparities in benefit distribution. In the pandemic, challenges emerged relating to providing customer service, timely processing of claims, and implementing new programs. Moreover, GAO, the Department of Labor (DOL), and the DOL Office of Inspector General have reported on the need to modernize state IT systems.

The risk of UI improper payments, including from fraud, greatly increased during the pandemic. Prior to the pandemic, DOL regularly reported billions of dollars in annual estimated improper payments in UI, and it reported an increase from $8.0 billion (9.2 percent improper payment rate) for fiscal year 2020 to $78.1 billion (18.9 percent improper payment rate) for fiscal year 2021. According to DOL, historically, the primary causes of improper payments related to eligibility determination issues, such as providing benefits to those who had returned to work and failed to report their earnings. However, DOL stated that during the pandemic, increased identity theft was a main cause. Total UI improper payments are not known partly because DOL has not yet reported estimates for certain pandemic UI programs. States have also struggled with incomplete reporting of billions of dollars in identified overpayments. The CARES Act UI programs created new, and increased existing, fraud risks. From March 2020 through January 2022, at least 146 individuals pleaded guilty to federal charges of defrauding UI programs and charges were pending against at least 249 individuals. As a result of the increase in fraud-related cases during the pandemic, federal and state entities continue to investigate UI fraud.

These extensive challenges pose significant risk to UI service delivery and expose the UI system to significant financial losses. Based on GAO's findings—including many open recommendations in this area—GAO has determined that the UI system should be added to GAO's High-Risk List. DOL has some activities planned and underway for the UI system, such as creating a UI modernization office and implementing strategies aimed at reducing risk; however, many long-standing issues remain unaddressed. Leaving these issues unaddressed will heighten the risk of the UI system not meeting fundamental program expectations of serving workers and the broader economy, and may undermine public confidence in the responsible stewardship of government funds.

Participants in stakeholder panels GAO convened identified various options for transforming the UI system. Options include changes to program design to better target support, improvements to infrastructure, and enhancements to program integrity—e.g., tightening federal standards for state UI implementation, such as those for eligibility, benefit amounts, and duration; improving and modernizing IT systems; and obtaining additional data sources to identify fraudulent claims. In addition, GAO identified broad considerations to help policymakers and others assess key aspects of different options for transforming UI programs and addressing related risks. Such considerations include the comprehensiveness and flexibility of potential transformations.

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Abbreviations

BAM	Benefit Accuracy Measurement
DOL	Department of Labor
EB	Extended Benefits
ETA	Employment and Training Administration
FEMA	Federal Emergency Management Agency
FPUC	Federal Pandemic Unemployment Compensation
ITSC	Information Technology Support Center
MEUC	Mixed Earner Unemployment Compensation
NASWA	National Association of State Workforce Agencies
OIG	Office of Inspector General
OMB	Office of Management and Budget
PEUC	Pandemic Emergency Unemployment Compensation
PII	personally identifiable information
PIIA	Payment Integrity Information Act of 2019
PUA	Pandemic Unemployment Assistance
UI	Unemployment Insurance
UIPL	Unemployment Insurance Program Letter

GAO U.S. GOVERNMENT ACCOUNTABILITY OFFICE

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June 7, 2022

The Honorable Ron Wyden
Chairman
Committee on Finance
United States Senate

The Honorable Gary C. Peters
Chairman
Committee on Homeland Security and Governmental Affairs
United States Senate

The Honorable Carolyn B. Maloney
Chairwoman
Committee on Oversight and Reform
House of Representatives

Overseen by the Department of Labor (DOL) and administered by the states, the Unemployment Insurance (UI) program is a federal-state partnership that provides temporary financial assistance to eligible workers who become unemployed through no fault of their own. During economic downturns, UI's role in supporting workers and our overall economy becomes more vital. For example, from roughly April 2020 through December 2021, UI programs combined provided about $849 billion in compensation to claimants, according to DOL.[1] However, the UI system has faced long-standing challenges with effective service delivery and program integrity. These challenges have been exacerbated during times of unprecedented demand for UI benefits, such as the 2007–2009

[1]This amount includes about $191 billion in compensation paid under the regular UI and Extended Benefits programs, and $658 billion in compensation paid under temporary UI programs in place during the pandemic, which expired on September 6, 2021. The compensation amounts for the temporary programs represent all compensation paid throughout the existence of the programs. These programs were generally created at the end of March 2020 and expired in September 2021, though some payments may have occurred after September 2021 for weeks of unemployment prior to the programs' expiration. We obtained April 2020 through December 2021 compensation amounts for the regular UI and Extended Benefits programs on May 3, 2022 from DOL's data summary website at https://oui.doleta.gov/unemploy/data_summary/DataSum.asp. We obtained compensation amounts for the temporary UI programs on May 3, 2022 from DOL's website at https://oui.doleta.gov/unemploy/docs/cares_act_funding_state.html.

recession and the COVID-19 pandemic, which led to historic levels of job loss.

In response to the COVID-19 pandemic, Congress allowed states to ease certain requirements in the regular UI program to help support unemployed workers, and also created new UI programs that expanded eligibility and enhanced UI benefits. However, states faced challenges processing a historically high number of claims and ensuring the timely payment of benefits to eligible individuals. The unprecedented demand for UI benefits and the urgency with which states implemented the new programs during the pandemic also increased the risk of improper payments, including those due to fraud.[2]

In recent years, GAO, DOL, and the DOL Office of Inspector General (OIG) have reported on the need for improving federal and state management of the UI system, modernizing IT, and improving program integrity.[3] Based on our findings from this body of work—including findings from two new GAO reports we are issuing concurrently—and the urgent need to address persistent issues in the UI system, we have

[2]The Payment Integrity Information Act of 2019 (PIIA) defines an improper payment as any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements. It includes any payment to an ineligible recipient, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), and any payment that does not account for credit for applicable discounts. 31 U.S.C. § 3351(4). Further, when an executive agency's review is unable to discern, because of lacking or insufficient documentation, whether a payment was proper, the agency must treat the payment as improper in producing an improper payment estimate. 31 U.S.C. § 3352(c)(2). Fraud involves obtaining something of value through willful misrepresentation. Whether an act is fraudulent is determined through the judicial or other adjudicative systems. In this report, "fraud risk" includes existing circumstances that provide an opportunity to commit fraud.

[3]For the purposes of this report, the UI system includes UI programs that were established prior to the COVID-19 pandemic (including the regular UI program and Extended Benefits), and programs established in response to the COVID-19 pandemic (such as Pandemic Unemployment Assistance and Federal Pandemic Unemployment Compensation, among others).

determined that the UI system should be on our High-Risk List and are making an out-of-cycle high-risk designation.[4]

This high-risk designation is intended to help spur progress in resolving persistent issues by shining a spotlight on key issues and ways the federal government can lead efforts to find solutions, such as by addressing our 21 open recommendations and those of the DOL OIG, and focusing on using federal funds efficiently to maximize results.[5] DOL continues to take some steps to address challenges, but a coordinated and sustained approach is important to ensure significant progress in improving program performance and integrity. As the nation's economy recovers from the effects of the COVID-19 pandemic, and states and DOL have more capacity to reflect on challenges the UI system faced before and during the pandemic, DOL now has the opportunity to give concerted attention to the long-term risks facing the UI system and to considerations in addressing them.

We prepared this report under the authority of the Comptroller General in light of congressional interest in the area of UI.[6] This report examines (1) challenges related to the UI system's ability to respond to the needs of unemployed workers and to changing economic conditions; (2) the risk of

[4]The reports being issued concurrently with this report are GAO, *Pandemic Unemployment Assistance: Federal Program Supported Contingent Workers amid Historic Demand, but DOL Should Examine Racial Disparities in Benefit Receipt*, GAO-22-104438 (Washington, D.C.: June 7, 2022) and *Unemployment Insurance: Pandemic Programs Posed Challenges, and DOL Could Better Address Customer Service and Emergency Planning*, GAO-22-104251 (Washington, D.C.: June 7, 2022). The High-Risk List highlights federal programs and operations that we have determined are in need of transformation. The High-Risk List also names federal programs and operations that are vulnerable to waste, fraud, abuse, and mismanagement. See GAO, *High-Risk Series: Key Practices to Successfully Address High-Risk Areas and Remove Them from the List,* GAO-22-105184 (Washington, D.C.: Mar. 3, 2022).

[5]See appendix III for more information on open GAO recommendations.

[6]See 31 U.S.C. § 717(b)(1). Congressional interest in the area of UI further developed from our work in response to the CARES Act. The CARES Act included a provision for GAO to conduct monitoring and oversight of the use of funds made available to prepare for, respond to, and recover from the COVID-19 pandemic. Pub. L. No. 116-136, div. B, § 19010, 134 Stat. 281, 579-81 (2020). We have regularly issued government-wide reports on the federal response to COVID-19. For the latest report, see GAO, *COVID-19: Current and Future Federal Preparedness Requires Fixes to Improve Health Data and Address Improper Payments*, GAO-22-105397 (Washington, D.C.: Apr. 27, 2022). Our government-wide reports are available on GAO's website at https://www.gao.gov/coronavirus. Because the scope of the evaluation went beyond COVID-19 funding, we conducted our work under the authority of the Comptroller General.

improper payments, including from fraud, in the UI system; (3) the extent to which challenges place the UI system at risk of significantly impaired performance and financial loss, and how to address such risks; and (4) potential options for transforming the UI system.

For our first objective, we reviewed audit products by GAO, the DOL OIG, and state audit agencies to determine the challenges that DOL and states face, including IT system constraints, in responding to unemployed workers' needs and to changing economic conditions.[7] We also reviewed published articles related to UI, written or recommended by participants in our stakeholder panels (discussed below), to identify both the historical and recent challenges the UI system has faced with addressing the needs of unemployed workers and the role the system has played in the larger economy.

For the second objective, we reviewed relevant federal laws and Office of Management and Budget (OMB) implementing guidance to identify the requirements that agencies must satisfy for improper payments reporting. In addition, we reviewed audit reports by GAO and the DOL OIG to determine the risks that DOL and states face regarding improper payments, including from fraud. We also analyzed UI improper payment estimates from both DOL and OMB's PaymentAccuracy.gov website. We assessed the reliability of the data by reviewing DOL's documentation and the DOL OIG audits on the quality of the estimates. We determined that the estimates were sufficiently reliable for the purposes of this report; however, we also note the limitations of the estimates, as described in this report.

For the third objective, we drew from GAO and DOL OIG reports on UI-related issues, and the two other UI-related reports we are issuing concurrently with this report.[8] We also met with DOL officials to discuss ongoing and planned activities to address challenges identified in these reports. To determine whether UI should be on the High-Risk List, we compared our findings from prior reports, DOL OIG reports, and this work against the GAO criteria for determining whether a government program

[7]The scope and methodology for GAO products we reviewed are contained in the respective reports. See "Related GAO Products" at the end of this report.

[8]GAO-22-104438 and GAO-22-104251.

or function is high risk.[9] We also considered federal internal control standards for monitoring during our review.[10]

To address objectives 1, 2, and 4, we convened a 2-day virtual roundtable composed of 16 stakeholder panelists with UI-related academic research experience, practical and applied experience running or assessing the UI system, or both. We selected potential panelists from government, the private sector, public–private partnerships, and academia to obtain educated views on topics related to transforming UI programs. The purpose of the roundtable discussions was to obtain stakeholder views on the risks facing the UI system, and options for how it could be transformed to better meet the demands of unemployed workers during periods of unprecedented job loss. The discussions were recorded and transcribed to ensure that we accurately captured panelists' statements. We analyzed the transcripts to develop a list of common themes and options for transformation. The inclusion in this report of individual options that stakeholders provided for transforming the UI system is meant to be illustrative and should not be interpreted as an endorsement by GAO or any federal agency or department. Appendix I provides a detailed discussion of our objectives, scope, and methodology for this review.

We conducted this performance audit from April 2021 to June 2022 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Designating Federal Programs as High Risk

The increased significance of the UI system during the pandemic drew attention to its vulnerabilities and susceptibility to fraud, waste, abuse, and mismanagement. Since the early 1990s, our High-Risk program has focused attention on government operations with greater vulnerabilities to

[9]GAO, *Determining Performance and Accountability Challenges and High Risks*, GAO-01-159SP (Washington, D.C.: Nov. 1, 2000).

[10]GAO, *Standards for Internal Control in the Federal Government*, GAO-14-704G. (Washington, D.C.: Sept. 10, 2014).

fraud, waste, abuse, and mismanagement, or that are in need of transformation to address economy, efficiency, or effectiveness.

To determine which federal programs and operations to designate as high risk, we use the criteria laid out in Determining Performance and Accountability Challenges and High Risks.[11] We consider qualitative factors, such as whether the risk (1) involves public health or safety, service delivery, national security, national defense, economic growth, or privacy or citizens' rights; or (2) could result in significantly impaired service, program failure, injury or loss of life, or significantly reduced economy, efficiency, or effectiveness. We also consider the exposure to financial loss. At a minimum, $1 billion must be at risk in areas such as the value of major assets being impaired; revenue sources not being realized; major agency assets being lost, stolen, damaged, wasted, or underutilized; potential for or evidence of improper payments; and presence of contingencies or potential liabilities. Before making a high-risk designation, we also consider corrective measures that are planned or underway to resolve a material control weakness and the status and effectiveness of these actions.

We release a High-Risk series report every 2 years at the start of each new Congress. Our reports detail progress made on previously designated high-risk issues, and designate any new issue areas we identify as high risk, based on the above criteria, in these reports or in separate products outside of the 2-year cycle. As in this case, we sometimes make out-of-cycle designations to highlight urgent issues, help ensure focused attention, and maximize the opportunity for the federal government to take action.[12]

GAO has five criteria for evaluating a program's progress toward removal from the High-Risk List: (1) a demonstrated strong commitment and leadership support to address the risk(s); (2) the capacity (i.e., the people and other resources) to resolve the risk(s); (3) a corrective action plan that defines the root causes, identifies effective solutions, and provides

[11] GAO-01-159SP.

[12] GAO has placed the following issues on the High-Risk List outside of GAO's biennial high-risk update cycle: the Government-Wide Personnel Security Clearance Process (2018); the U.S. Postal Service's Financial Viability (2009); the 2010 Census (2008); the National Flood Insurance Program (2006); the Pension Benefit Guaranty Corporation Insurance Programs (2003); the U.S. Postal Service's Transformation Efforts and Long-Term Outlook (2001); and the Department of Housing and Urban Development Single-Family Mortgage Insurance and Rental Housing Assistance Programs (1994).

for substantially completing corrective measures near term, including steps necessary to implement solutions we recommend; (4) a program instituted to monitor and independently validate the effectiveness and sustainability of corrective measures; and (5) the ability to demonstrate progress in implementing corrective measures.

UI Program Administration and Funding

The federal government and states work together to administer UI programs. States design and administer their own UI programs within federal parameters, while DOL oversees states' compliance with federal requirements, such as by reviewing state laws to confirm they are designed to ensure payment of benefits when due. According to DOL, state statutes establish specific benefit structure, eligibility provisions, benefit amounts, and other aspects of the program. Regular UI benefits—those provided by state UI programs since before the CARES Act was enacted—are funded primarily through state taxes levied on employers and are intended to replace a portion of a claimant's previous employment earnings, according to DOL.[13]

The CARES Act created three federally funded temporary UI programs that expanded benefit eligibility and enhanced benefit amounts, which were amended by the Consolidated Appropriations Act, 2021, and the American Rescue Plan Act of 2021.[14]

1. **Pandemic Unemployment Assistance (PUA)** authorized UI benefits for individuals not otherwise eligible for UI benefits, such as self-employed and certain gig economy workers, who were unable to work as a result of specified COVID-19-related reasons.[15]
2. **Federal Pandemic Unemployment Compensation (FPUC)** generally authorized an additional weekly benefit for individuals who

[13]To be eligible for regular UI benefits, applicants must generally demonstrate workforce attachment, be able and available to work, and be actively seeking work. 42 U.S.C. § 503(a)(12). Administration of the regular UI program is financed by a federal tax on employers, according to DOL.

[14]The CARES Act also addressed other aspects of the UI system, such as authorizing certain flexibilities for states to hire additional staff. In addition to the CARES Act, the Families First Coronavirus Response Act provided up to $1 billion in emergency grant funding to states in fiscal year 2020 for UI administrative purposes.

[15]At the time of the program's expiration, PUA generally authorized up to 79 weeks of benefits. Pub. L. No. 117-2, § 9011(a), (b), 135 Stat. 4, 118; Pub. L. No. 116-260, div. N, tit. II, § 201(a), (b), 134 Stat. 1182, 1950-1951 (2020); Pub. L. No. 116-136, § 2102, 134 Stat. 281, 313 (2020).

were eligible for weekly benefits under the permanent UI programs—e.g. regular UI—and the temporary CARES Act UI programs.[16]

3. **Pandemic Emergency Unemployment Compensation (PEUC)** generally authorized additional weeks of UI benefits for those who had exhausted their regular UI benefits.[17]

In addition, the Consolidated Appropriations Act, 2021 created the Mixed Earner Unemployment Compensation (MEUC) program, which was extended by the American Rescue Plan Act of 2021.[18] According to DOL, the MEUC program was intended to cover regular UI claimants whose benefits do not account for significant self-employment income and who thus may have received a lower regular UI benefit than they would have received had they been eligible for PUA.[19]

The federal government directly funded the administration of, and benefits for, the new pandemic-related UI programs ($723.4 billion obligated as of February 28, 2022 for COVID-19 relief related to UI) and relied on states

[16]FPUC generally authorized an additional $600 benefit through July 2020 as well as an additional $300 benefit for weeks beginning after December 26, 2020, through the end of the program. Pub. L. No. 117-2, § 9013, 135 Stat. 4, 119; Pub. L. No. 116-260, div. N, tit. II, § 203, 134 Stat. 1182, 1953; Pub. L. No. 116-136, § 2104, 134 Stat. 281, 318. In addition, on August 8, 2020, the President signed a memorandum directing the Department of Homeland Security's Federal Emergency Management Agency (FEMA) to provide up to $44 billion in lost wages assistance. Pursuant to the presidential memorandum, upon receiving a FEMA grant, states and territories could provide eligible claimants $300 or $400 per week—which included a $300 federal contribution—in addition to their UI benefits. The White House, *Memorandum on Authorizing the Other Needs Assistance Program for Major Disaster Declarations Related to Coronavirus Disease 2019* (Aug. 8, 2020). FEMA approved 53 states and territories to provide lost wages assistance to eligible claimants for a maximum of 6 weeks of unemployment experienced from the week ending on August 1, 2020, through the week ending on September 5, 2020.

[17]At the time of the program's expiration, PEUC generally authorized an additional 53 weeks of benefits for claimants who were fully unemployed. Pub. L. No. 117-2, § 9016(a), (b), 135 Stat. 4, 119-120; Pub. L. No. 116-260, div. N, tit. II, § 206(a), (b), 134 Stat. 1182, 1954; Pub. L. No. 116-136, § 2107, 134 Stat. 281, 323.

[18]The MEUC program, which was voluntary for states, authorized an additional $100 weekly benefit for certain UI claimants who received at least $5,000 of self-employment income in the most recent tax year prior to their application for UI benefits. Pub. L. No. 117-2, § 9013(a), 135 Stat. 4, 119; Pub. L. No. 116-260, div. N, tit. II, § 261(a)(1), 134 Stat. 1182, 1961. The $100 weekly benefit was in addition to other UI benefits received by claimants; however, individuals receiving PUA benefits could not receive MEUC payments.

[19]Not all participating states and territories had begun paying MEUC benefits as of February 7, 2022, according to DOL.

to ensure benefits reached individuals who lost their jobs due to the pandemic. These programs expired on September 6, 2021, although some states ended their participation in one or more of these programs before that date.[20]

During the pandemic, regular UI claimants who exhausted their regular UI and PEUC benefits also had access to the Extended Benefits (EB) program—established in 1970—if their claim was in a state that triggered the program.[21] The EB program extends the receipt of UI benefits if certain economic criteria, known as triggers, are met. Specifically, the EB program uses triggers based on the unemployment rate of people covered by UI (the insured unemployment rate), and the unemployment rate based on the wider population (the total unemployment rate). According to DOL, the program provides, depending on state law, up to an additional 13 or 20 weeks of benefits and is activated in states during periods of high unemployment.[22]

States’ UI IT Environment

State workforce agencies rely extensively on IT systems to carry out their program functions, including benefit eligibility determinations, recording claimant filing information, and calculating benefit amounts. However, many states continue to rely on aging, or legacy, IT systems developed in the 1970s and 1980s.[23] Legacy systems run on outdated or unsupported hardware and software that are expensive to maintain and may use older programming languages such as the Common Business Oriented Language.[24] As a result, state workforce agencies may not be able to

[20]According to DOL, 24 states withdrew from at least one of the CARES Act UI programs before the programs expired: Alabama, Alaska, Arizona, Arkansas, Florida, Georgia, Idaho, Iowa, Louisiana, Mississippi, Missouri, Montana, Nebraska, New Hampshire, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, West Virginia, and Wyoming.

[21]Pub. L. No. 91-373, Title II, 84 Stat. 695, 708-13 (codified as amended at 26 U.S.C. § 3304, note).

[22]The EB program was activated in all states except South Dakota at some point during the pandemic, according to DOL. If unemployment was not high enough to activate the EB program in a state, or if regular UI claimants exhausted their PEUC and EB, they may have been eligible for PUA benefits if they also met PUA eligibility requirements.

[23]The National Defense Authorization Act for Fiscal Year 2018 defines a legacy IT system as an IT system that is outdated or obsolete. Pub. L. No. 115-91, § 1076(8), 131 Stat. 1283, 1586-87 (2017).

[24]The Common Business Oriented Language, which was introduced in 1959, became the first widely used, high-level programming language for business applications.

ensure these legacy systems have effective internal controls to address current security vulnerabilities and other IT risks to the UI program. According to the National Association of State Workforce Agencies (NASWA), as of December 2021, 32 of the 53 states and territories were still using legacy IT systems to support their UI benefits system, tax system, or both.[25]

We previously reported that modernizing legacy IT systems allowed agencies to leverage IT to successfully address their missions and achieve a wide range of benefits. IT modernization can include transforming legacy code into a more modern programming language, migrating legacy services to cloud computing solutions, and re-designing mainframe applications to cloud-based applications.[26] Further, the benefits of a successful IT modernization effort can include cost savings, improved customer service, enhanced security, and reduced amount of labor needed to maintain legacy systems and software, among other things.

DOL has provided some administrative funding, when available, and technical support to the state agencies to assist with their IT modernization efforts. For example, in 2017, the department awarded supplemental grants to support states' UI IT modernization.[27] More recently, in August 2021, DOL announced plans to, among other things, use $2 billion in funding, provided by the American Rescue Plan Act of 2021, to further assist states with modernizing their IT systems, detecting and preventing fraud, promoting equitable access, and assuring the timely payment of UI benefits.[28] DOL's Employment and Training Administration (ETA) also provides states with technical assistance on IT

[25]NASWA represents all 50 state workforce agencies, the District of Columbia, and U.S. territories.

[26]Cloud computing is a means for delivering computing services via IT networks. When executed effectively, cloud-based solutions can allow agencies to pay for only the IT services used, and thus pay less for more services. GAO, *Information Technology: Agencies Need to Develop Modernization Plans for Critical Legacy Systems*, GAO-19-471 (Washington, D.C.: June 11, 2019).

[27]See Department of Labor, Unemployment Insurance Program Letter 22-17, *Unemployment Insurance Supplemental Funding Opportunity for State Consortia to Modernize Tax and Benefit Systems* (Sept. 8, 2017).

[28]Department of Labor, *US Department of Labor Announces Funding to States to Modernize Unemployment Insurance System, Combat Fraud, Address Equity* (Washington, D.C.: Aug. 11, 2021).

modernization by funding and overseeing the Information Technology Support Center (ITSC), operated by NASWA.[29]

DOL is also working with the U.S. Digital Service to develop modular technology solutions that states may adopt as part of ongoing modernization and improvement efforts.[30] In May 2022, officials stated that they began pilot testing the first module, which is focused on the claimant experience, on March 31, 2022 in Arkansas and on April 26, 2022 in New Jersey. DOL officials also stated that the department is working with the U.S. Digital Service and the states to develop a blueprint for the UI customer experience which would help inform the need for future IT infrastructure investments and development.

Process for Estimating Improper Payments in UI

An improper payment is any payment that should not have been made or that was made in an incorrect amount (including an overpayment or underpayment) under statutory, contractual, administrative, or other legally applicable requirements.[31]

The Payment Integrity Information Act of 2019 (PIIA) requires federal executive agencies to take various steps regarding improper payments

[29]ITSC was created in 1994 as a partnership between DOL and the Maryland Department of Labor, Licensing and Regulation to support state UI IT initiatives. DOL supports ITSC through grants to the Maryland agency, and ITSC's Steering Committee includes representatives from ETA. According to ETA officials, ITSC supports state UI IT modernization efforts by collecting and disseminating information, providing training, maintaining a collection of software tools and components, and helping states leverage the systems and products built by other states.

[30]The U.S. Digital Service, a component within OMB, was established by the President in August 2014 and aims to improve the most important public-facing federal digital services.

[31]31 U.S.C. § 3351(4). When an agency cannot determine, due to lacking or insufficient documentation, whether a payment is proper, the payment shall be treated as an improper payment. 31 U.S.C. § 3352(c)(2). In this report we refer to such payments as "unknown payments." In this report, incorrect amounts are overpayments, underpayments, and unknown payments that are made to eligible UI recipients, and any payment made to an ineligible UI recipient.

and requires OMB to issue guidance to implement those requirements.[32] Additionally, PIIA requires OMB to annually identify a list of high-priority federal programs for greater levels of oversight and review. Each agency administering a high-priority program is required to quarterly report to OMB certain improper payment information, such as actions the program has taken or intends to take to prevent improper payments from occurring in the future. This information is included in a Payment Integrity Scorecard on PaymentAccuracy.gov.[33]

DOL uses its Benefit Accuracy Measurement (BAM) system to determine the accuracy of UI benefit payments and estimate the amount and rate of improper payments.[34] Under the BAM system, each state reviews a number of randomly selected cases on a weekly basis and reconstructs the UI claims process to assess the accuracy of the payments that were made.[35] Each state determines what the benefit payment should have been according to its laws and policies. States report the results of their BAM case reviews to DOL—including overpayments and underpayments—through an online data system. DOL uses the data to estimate improper payment rates by state, as well as to calculate a nationwide rate. DOL also uses the BAM system to identify the cause of improper payments, such as payments made to individuals who continue to make claims after returning to work and failing to report earnings, were determined ineligible due to an unreported disqualifying job separation,

[32]PIIA repealed the prior improper payment statutes but instead enacted substantially similar provisions in a new subchapter of the U.S. Code. However, the core structure of federal executive agency assessment, estimation, analysis, and reporting of improper payments remains consistent with the prior statutory framework. See 31 U.S.C. §§ 3351-3352. See also Office of Management and Budget, *Appendix C to OMB Circular A-123, Requirements for Payment Integrity Improvement*, OMB Memorandum M-21-19 (Washington, D.C.: Mar. 5, 2021); Office of Management and Budget, *Financial Reporting Requirements*, Circular No. A-136, (Washington, D.C.: Aug. 10, 2021).

[33]DOL UI quarterly reports can be found at: https://www.paymentaccuracy.gov/payment-accuracy-high-priority-programs/.

[34]BAM is a statistical survey used to identify and support resolutions of deficiencies in a state's UI system. BAM is also used to identify the root causes of improper payments and supports other analyses conducted by DOL to identify improper payment prevention strategies and to measure progress in meeting improper payment reduction targets.

[35]Approximately 24,000 cases are drawn from states annually, with sample sizes ranging from 360 cases per year in the 10 states with the smallest UI workloads to 480 cases in the remainder of the states.

such as quitting a job without good cause or being discharged for misconduct.

According to DOL officials, many UI improper payments cannot be prevented given certain legal requirements that states pay claims in a timely manner, based on the best information available at the time, and provide claimants with due process when the state finds an eligibility issue. Specifically, DOL cited federal law requiring that when an eligibility issue is detected, the claimant must be given notice and the opportunity to provide the state with additional information before being denied benefits. In addition, DOL noted that the state is required to resolve eligibility issues within 1 week of detection. If the state cannot resolve the issue by this deadline, it must pay the claimed week. According to DOL states cannot always prevent improper payments because of the time needed to exercise due process.[36]

We have previously reported that the identification of improper payments could suggest that a program is vulnerable to fraud; however, it is important to note that not all improper payments are fraudulent payments.[37] Specifically, fraud involves obtaining something of value through willful misrepresentation, such as applicants falsifying information on income or employment eligibility to receive benefits, and is determined through the judicial or other adjudicative systems.[38] As such, improper payment estimates do not measure, and are not intended to measure, fraud in a particular program. Federal and state entities continue to investigate and report on high levels of fraud, potential fraud, and fraud risks in UI programs.

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[36]Federal law requires states to have methods of administration in their UI programs that are found by DOL to be reasonably calculated to ensure full payment of UI benefits "when due." 42 U.S.C. § 503(a)(1). DOL points to a Supreme Court decision stating that this language was intended to mean "at the earliest stage of unemployment that such payments [are] administratively feasible after giving both the worker and the employer an opportunity to be heard." Cal. Dep't of Hum. Res. Dev. v. Java, 91 S. Ct. 1347, 1354 (1971).

[37]*COVID-19: Significant Improvements Are Needed for Overseeing Relief Funds and Leading Responses to Public Health Emergencies*, GAO-22-105291. Washington, D.C.: Jan. 27, 2022.

[38]According to DOL, because states may use different definitions for categorizing an overpayment as fraudulent, an overpayment that is classified as fraudulent in one state might not be classified as fraudulent in another state. Whether an act is fraudulent is determined through the judicial or other adjudicative systems.

Reported Challenges with State UI Administration and Outdated IT Systems Affect UI Responsiveness

Long-standing challenges with UI administration and outdated IT systems have affected states' ability to meet the needs of unemployed workers, both historically and during times of economic downturn—particularly the COVID-19 pandemic. According to our past work and that of the DOL OIG, and the views of our stakeholder panelists, these types of program issues that have resulted in significantly impaired service, significantly reduced effectiveness, or significantly reduced efficiency are some of the qualitative factors we considered when determining to add the UI program to our High-Risk List. For example:

- Multiple participants in our stakeholder panels reported that the current UI program design and variation across states are contributing to declining worker access and disparities in benefit distribution.
- We and others have reported that states' difficulties with administering UI during the pandemic, including implementing new CARES Act UI programs, have exacerbated existing challenges with providing customer service and timely claims processing.
- We, DOL, and the DOL OIG have reported significant risks with the continued use of older legacy IT systems that also hindered states' ability to implement new UI programs during the pandemic.
- States have faced multiple challenges, including funding uncertainties and staff limitations, in their attempts to modernize UI IT systems.

UI Program Design Has Led to Challenges

Workers' Participation in the UI Program Has Declined over Time

Prior to the COVID-19 pandemic, the proportion of unemployed workers filing for UI benefits—referred to as the recipiency rate—was near a historic low, after generally declining from the 1950s. This historical decline has multiple causes, including state restrictions on eligibility, according to DOL, or other potential causes such as an increase in workers who are ineligible for benefits. Such ineligible workers can include those experiencing long-term unemployment who have exhausted their eligibility for benefits, those who quit or were fired for cause, and certain types of contingent workers.[39] According to DOL, the recipiency

[39]See Ryan Nunn and David Ratner, *Rethinking Unemployment Insurance Taxes and Benefits* (Tax Policy Center, Urban Institute and Brookings Institution, Oct. 28, 2019), and William J. Congdon and Wayne Vroman, *Covering More Workers with Unemployment Insurance: Lessons from the Great Recession* (Washington, D.C.: Urban Institute, Feb. 2021).

rate was 54.6 percent in 1958 and declined to 28.1 percent in 2019.[40] In addition, recipiency rates varied widely by state, from 9.5 percent (North Carolina) to 59.0 percent (New Jersey) in 2019, according to DOL.

Program design is among the factors contributing to declining participation and fewer individuals filing for regular UI benefits (i.e., the decline in the recipiency rate), including states tightening requirements for participation in UI, according to DOL and participants in our stakeholder panels. In addition, some stakeholder panelists noted that, as an employer-based structure, the regular UI program does not cover workers for whom payroll taxes are not paid, such as independent contractors or self-employed workers, who are estimated to number in the millions. Furthermore, changes in the way people work also may have led to a decline in coverage. For example, researchers have noted that contingent workers, who may have irregular work and earnings histories, may be more likely to face difficulties in qualifying for regular UI. During the COVID-19 pandemic, the temporary PUA program was the first nationwide program to provide these workers with access to UI benefits, provided they met program eligibility criteria.[41]

UI Program Is Administered Differently across States and Territories, Which Leads to Inconsistent Levels of Worker Support

The regular UI program was designed as a federal-state partnership that gives states considerable flexibility, resulting in essentially 53 different UI programs across the states and territories. Stakeholder panelists noted that minimum and maximum UI benefit amounts, duration of benefit periods, and eligibility rules are substantially different by state, resulting in inconsistent levels of support for workers. In our 2015 report, we found that reductions in state benefit durations resulted in some individuals receiving substantially less in total UI benefits.[42] In addition, DOL, panelists, and we have identified concerns about racial and other

[40] This overall decline included a drop after the 2007–2009 recession, from 40.1 percent in 2009 to 25.7 percent in 2013. In 2020, the recipiency rate increased sharply to 78.0 percent. According to DOL officials, this was due to the large number of UI continued claims during the pandemic.

[41] For more information about the PUA program and the experiences of contingent workers during the pandemic, see GAO-22-104438. In that report, we also make a recommendation for DOL to study and advise the Congress and other policymakers on the costs, benefits, and risks of various options to systematically support self-employed and contingent workers during periods of involuntary unemployment outside of declared disasters.

[42] GAO, *Unemployment Insurance: States' Reductions in Maximum Benefit Durations Have Implications for Federal Costs*, GAO-15-281 (Washington, D.C.: Apr. 22, 2015).

disparities—including those associated with disability and internet access—in accessing and receiving UI benefits.[43] Panelists noted that there is a correlation between states with low UI recipiency rates and states with a high percentage of African American residents, as compared to other states.

States also take different approaches to monitoring ongoing UI claimant eligibility, including compliance with work search requirements. In our 2018 report, we made several recommendations related to monitoring ongoing claimant eligibility that remain unaddressed and that we have designated as high priority. For example, we recommended that DOL clarify and monitor states' compliance with work-search verification requirements.[44]

Panelists Noted That the Extended Benefits Program Has Limited Effectiveness during Economic Downturns

Stakeholder panelists noted limitations with the EB program's effectiveness amid changing national economic conditions. The EB program responds to recessions by extending the duration of UI benefits. According to DOL, an important part of the mission of UI is to stabilize the U.S. economy during recessions by helping individuals maintain their purchasing power by replacing a portion of income lost through unemployment. However, panelists highlighted various issues with the EB program. For example:

- Multiple panelists raised questions about the statistical validity of the specific triggers that are used to activate the EB program.

[43]For more information about racial and ethnic disparities in the receipt of UI benefits, see GAO-22-104438 and GAO, *Management Report: Preliminary Information on Potential Racial and Ethnic Disparities in the Receipt of Unemployment Insurance Benefits during the COVID-19 Pandemic*, GAO-21-599R (Washington, D.C.: June 17, 2021). As we have previously reported, DOL has taken a variety of steps to address equity in the UI program, including making grant funds available to states to address equity issues. DOL has also deployed teams of experts, including equity experts, to states to identify challenges to UI benefit access and best practices for addressing those challenges. In addition, in April 2022, DOL released an Equity Action Plan, which among other things summarized DOL's ongoing and planned actions to advance equity in the UI system and support marginalized, vulnerable, and underserved communities. For more information about these efforts, see GAO-22-104438.

[44]GAO, *Unemployment Insurance: Actions Needed to Ensure Consistent Reporting of Overpayments and Claimants' Compliance with Work Search Requirements*, GAO-18-486 (Washington, D.C.: Aug. 22, 2018). A listing of open GAO recommendations is in appendix III of this report.

- Multiple panelists noted that in prior recessions, most workers were re-employed before their regular UI benefits ran out, and therefore, the EB program was not relevant for those workers.
- Multiple panelists noted that in recent recessions, Congress created temporary programs to expand UI because the EB program did not respond adequately to national recessions.

State Agencies Have Struggled to Fund UI Benefits and Administrative Costs

States' benefit amounts and approaches to UI financing, risk the viability of the program. The regular UI program is generally funded through a mixture of federal and state taxes on employers.[45] When a state exhausts the funds available for regular UI benefits, it may borrow from the federal government. As we previously reported, during the 2007–2009 recession and the COVID-19 pandemic, many states took out federal loans to pay for UI benefits. For example, in 2010, after the 2007–2009 recession, 30 states and territories held approximately $40.2 billion in federal loans.[46] Similarly, during the pandemic, many states took federal loans to pay for UI benefits. For example, as of April 23, 2021, 20 states and territories held loans with a combined total balance of $55.1 billion. By March 31, 2022 the number of states and territories holding federal loans had dropped to 10 with a total combined balance of $37.6 billion. In 2015, we found that states that had reduced UI benefit durations after the 2007–2009 recession had weaker pre-recession trust funds.[47]

[45]The regular UI program is primarily funded through state and federal taxes on employers, though according to DOL, three states also require employee contributions under certain conditions. Under the Federal Unemployment Tax Act, employers are generally required to pay a federal unemployment tax at a rate of 6 percent on the first $7,000 of wages paid to an employee each year, which funds administrative costs associated with the regular UI program and the federal share of benefits paid under the EB program, among other things. The Federal Unemployment Tax Act provides a credit of up to 5.4 percent against federal tax liability to employers who pay state taxes in a timely manner under an approved state UI program. If a state has outstanding loan balances on January 1 for 2 consecutive years and does not repay the full amount of its loans by November 10 of the second year, the Federal Unemployment Tax Act credit rate for employers in that state will be reduced. Thus, the federal taxes paid by employers in that state will increase, all else being equal.

[46]GAO, *COVID-19: Additional Actions Needed to Improve Accountability and Program Effectiveness of Federal Response*, GAO-22-105051 (Washington, D.C.: Oct. 27, 2021). We did not adjust this 2010 loan balance amount for inflation.

[47]Other factors we identified included higher unemployment rates, lower rates of union membership, and single-party control of the executive and legislative branches. See GAO-15-281.

In addition, participants in our stakeholder panels also noted that funding for UI administration has been a historical challenge. From fiscal years 2010 to 2019, funding available for state UI administration declined about 21 percent.[48] Several panelists commented that insufficient federal funding for UI administration has resulted in state unemployment agencies being understaffed or having outdated technology. One panelist also noted that, with additional funding, DOL could better assist states. In their totality these programmatic and administrative issues could pose an inherent risk to service delivery in the UI system if left unaddressed. They could also significantly reduce the economic stabilization effects and the overall efficiency of the program.[49]

State UI Programs Have Faced Administrative Challenges with Customer Service, Payment Timeliness, and Implementing New Programs

We and others have reported on administrative challenges that states encountered as they implemented both the regular and pandemic-related UI programs, posing risks for how effectively workers were served. These reported challenges are in the areas of providing customer service, delivering timely UI benefits, and implementing new programs.

Customer service. States have reported facing ongoing administrative challenges in providing effective customer service to UI claimants, even outside of economic downturns. In our 2016 report, we found that during the 2007–2009 recession many states reported facing challenges in processing record numbers of UI claims, including insufficient call center staff and staff turnover, as well as delays in claimants receiving benefits.[50] Furthermore, many states reported that insufficient call center staff was a challenge in 2014 and 2015, several years after the recession ended and federal administrative funding had returned to pre-recession levels. Also, in each of the focus groups held during our prior work, regular UI claimants who applied for benefits by phone between July 2014 and July 2015 reported experiencing long call wait times or having to call multiple times to reach program representatives, as well as having difficulty using

[48]After adjusting for inflation, this represents a decline of about 32 percent, using the gross domestic product price index.

[49]In its official comments, see appendix II, DOL stated that funding constrains for the UI system have historically posed ongoing threats to states' ability to administer UI programs with efficiency and integrity.

[50]GAO, *Unemployment Insurance: States' Customer Service Challenges and DOL's Related Assistance*, GAO-16-430 (Washington, D.C.: May 12, 2016).

automated phone systems. During the COVID-19 pandemic, similar challenges were again cited by states and claimants.[51]

Payment timeliness. Stakeholder panelists noted the importance of delivering timely UI benefits to unemployed workers who need assistance. The long waits for payments during the pandemic caused financial and other hardships for some workers. For example, some PUA claimants we spoke with as part of our work examining that program said they needed to negotiate rent payment delays, defer bills, or accrue credit card debt while they were waiting for their first PUA payment. Claimants from across multiple UI programs we spoke with as a part of our work examining CARES Act UI programs during the pandemic told us that they used funds from their retirement accounts and other savings, relied on family and friends for loans to meet living expenses, and accepted assistance from community-based food pantries and other organizations to get help with food and utilities amidst payment delays.[52]

As we have previously reported, extensive claims-processing backlogs led to substantial delays in first payments of regular UI benefits early in the pandemic, and those delays continued for some states later in the pandemic. At the beginning of the pandemic, the nationwide percentage of regular UI first benefits paid within 21 days of a claimant's initial eligibility fell from about 97 percent in March 2020 to about 52 percent in June 2020.[53] Although the timeliness of these first payments improved nationally from fall 2020 through early 2021 (see fig. 1), first-payment timeliness generally declined again from about 79 percent in April 2021 to about 52 percent in October 2021. First payment timeliness improved again from late 2021 through January 2022, before declining again to 63 percent in February 2022. Many regular UI claimants continue to face significant delays in receiving their first benefits. Nationwide, about 18 percent of regular UI claimants who received their first benefits in

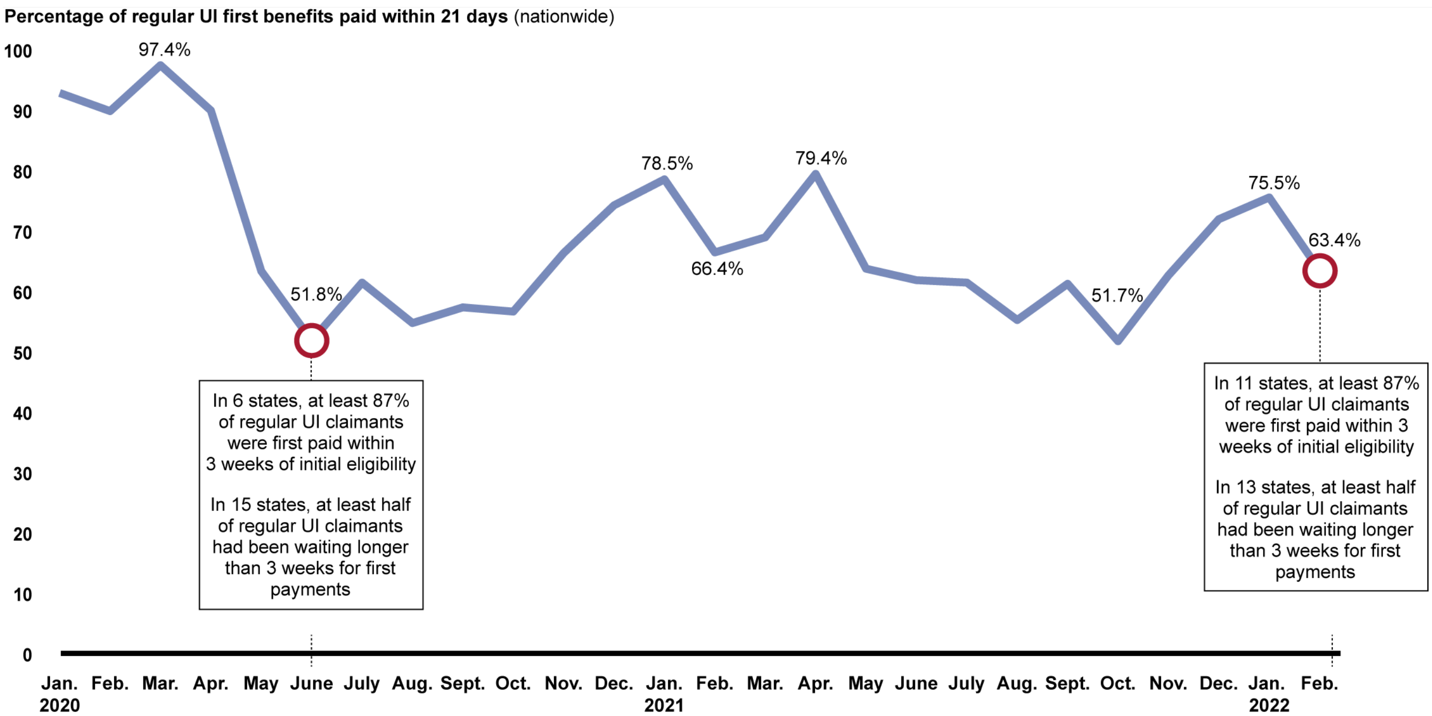
[51] GAO-22-104251. In that report, we also make a recommendation for DOL to review the challenges that states faced during the pandemic to identify best practices for helping claimants and share those practices with the states.

[52] GAO-22-104438 and GAO-22-104251.

[53] GAO-22-105051 and GAO-22-105291. One of DOL's core performance measures is the percentage of all regular UI first payments made within either 14 or 21 days of the first week of benefits for which claimants are eligible; DOL considers 87 percent to be an acceptable level of performance. DOL uses 14 days as the timeliness goal for states with a waiting week requirement and uses 21 days for states without a waiting week requirement.

February 2022 had been waiting longer than 10 weeks. By comparison, of the regular UI claimants nationwide who received their first benefits in March 2020, less than 1 percent had been waiting longer than 10 weeks.[54]

Figure 1: Timeliness of Nationwide First Payments of Regular Unemployment Insurance (UI) Benefits, Jan. 2020–Feb. 2022



Source: GAO analysis of Department of Labor data on timeliness of first benefits paid for regular UI. | GAO-22-105162

Notes: We analyzed regular UI first-payment timeliness data that states had reported to the Department of Labor (DOL) as of March 28, 2022. At that point, all 53 states and territories had reported data for February 2022 and prior months. One of DOL's core performance measures is the percentage of all regular UI first payments made within either 14 or 21 days of the first week of benefits for which claimants are eligible, depending on whether the state requires that eligible claimants serve a waiting period before receiving benefits. DOL considers 87 percent to be an acceptable level of performance. We focus on payments made within 21 days because in guidance released at the start of the pandemic, DOL recommended that states consider temporarily waiving their waiting week requirements.

Implementing new programs. Prior to the pandemic, the DOL OIG had noted concerns with DOL and states' ability to deploy program benefits quickly and efficiently while ensuring integrity and adequate oversight, particularly in response to national emergencies and disasters. During the

[54]GAO-22-105397.

pandemic, states received record levels of UI claims as they simultaneously implemented the new CARES Act UI programs, which overwhelmed their existing staff resources and resulted in claims backlogs. Initial claims for regular UI benefits nationwide reached a historic peak of more than 6 million per week in late March and early April 2020, and states reported receiving more than 1.3 million weekly PUA initial claims in late May 2020. GAO and the DOL OIG have reported that selected states struggled to implement the CARES Act UI programs due to insufficient staffing and unclear guidance from DOL, among other issues.[55] The DOL OIG also reported that states had to develop new systems to implement the CARES Act UI programs, resulting in backlogs in processing claims for weeks, and in some cases, months.[56] These backlogs further contributed to service delivery inefficiencies already present in the UI system.

State IT Challenges Include Using and Modernizing Legacy UI Systems

Legacy Systems Pose Risks and Challenges for State UI Programs

As mentioned earlier, many states rely on legacy systems for their UI programs. DOL OIG and GAO have reported on the risks and challenges that legacy systems pose for state UI programs, which have led to, among other things, reduced efficiency and effectiveness.[57] For example:

- **Inefficient system performance**. Prior to the COVID-19 pandemic, in May 2016, we reported that legacy IT systems were a challenge for many states, according to our survey.[58] Specifically, 29 of 48 states

[55] GAO-22-104251. The DOL OIG reported that states struggled to implement the CARES Act UI programs because their IT systems were not modernized, staffing resources were insufficient to manage the increased number of new claims, and guidance from DOL was untimely and unclear, according to state officials. See Department of Labor Office of Inspector General, *COVID-19: States Struggled to Implement CARES Act Unemployment Insurance Programs*, Report No. 19-21-004-03-315 (Washington, D.C.: May 28, 2021).

[56] DOL OIG, Report No. 19-21-004-03-315.

[57] We have ongoing work looking at state UI IT system modernization efforts, including successes and challenges, as well as DOL's management and oversight of its efforts to assist agencies with their modernization efforts.

[58] GAO, *Unemployment Insurance: States' Customer Service Challenges and DOL's Related Assistance,* GAO-16-430 (Washington, D.C.: May 12, 2016).

(60 percent) reported that their IT systems had significant limitations, which had implications for the ability of state programs to efficiently process UI claims and serve claimants.[59] For example, state officials reported that outdated systems led staff to have to check multiple systems for claims information, which could lead to errors in processing claims that significantly reduced the efficiency and effectiveness of the program. Additionally, state officials told us that because claimants could not check status updates and other information online, they needed to rely on phone call centers, which also consumed significant staff resources.

After the start of the pandemic, in June 2020, we reported that the unprecedented number of UI claims posed challenges for states' capacity to process them.[60] More specifically, state UI programs faced challenges with legacy data systems. According to DOL and representatives of state workforce agencies, states with UI IT systems that dated as far back as the 1970s had reported system performance issues. We further noted that relatively few states had load-tested their systems to handle large volumes of claims, according to representatives of state workforce agencies.

- **Slower processing of payments**. In May 2021, the DOL OIG reported that states with legacy systems started the PEUC program 15 days slower than states with modernized systems, and the PUA program 8 days slower on average.[61] Further, the OIG reported that legacy IT systems were a primary hindrance to states' ability to implement CARES Act UI programs more effectively. Specifically, the OIG reported that officials from 17 of 50 states and territories (34 percent) stated their IT systems were unable to implement provisions of the CARES Act, such as those creating the PUA program.[62]
- **Inability to detect and recover improper payments (including from fraud)**. The May 2021 DOL OIG's report also identified legacy IT systems as one of the causes of states' inability to detect and recover

[59]We did not receive survey responses from UI programs in the District of Columbia, North Carolina, and Vermont. Our review did not include UI programs in Puerto Rico and the U.S. Virgin Islands.

[60]GAO, *COVID-19: Opportunities to Improve Federal Response and Recovery Efforts*, GAO-20-625 (Washington, D.C.: June 25, 2020).

[61]Department of Labor, Office of Inspector General, *COVID-19: States Struggled to Implement CARES Act Unemployment Insurance Programs*, Report No. 19-21-004-03-315 (Washington, D.C.: May 28, 2021).

[62]Arkansas, Idaho, and Vermont were not included among the states.

improper UI payments, including fraudulent payments. For example, state officials reported that their IT systems did not have the capability to perform cross-matches—a method used to detect improper payments—for such a large volume of claims.

- **Difficulty reporting UI program activities to DOL**. The May 2021 DOL OIG's report also identified legacy IT systems as one of the causes of states being unable to report their CARES Act UI program activities to DOL. For example, state officials noted that they were unable to program the newly required reports in their IT systems.

More generally, we have previously reported that the use of legacy systems can contribute to additional risks, including:[63]

- **Security vulnerabilities**. Legacy systems may operate with known security vulnerabilities that are either technically difficult or prohibitively expensive to address. In some cases, vendors no longer provide support for hardware or software, creating security vulnerabilities and additional costs. In the UI program, this may pose a privacy risk for claimants as their information could become more easily accessible to criminals who target the UI system.
- **Staffing issues**. We have reported that it is difficult to find employees with experience working with older technology and programming languages to operate and maintain legacy systems. Therefore, state agencies may need to pay a premium to hire specialized staff or contractors.
- **Increased costs**. The cost of operating and maintaining legacy systems increases over time due, in part, to security risks and staffing issues, as described earlier. Further, the high costs of maintaining legacy systems could limit state agencies' ability to modernize and develop new or replacement systems.

States Have Encountered Challenges with Modernizing Their UI Systems

Our work has also identified challenges that states face in modernizing their legacy UI systems, such as funding uncertainty, staffing and vendor limitations, and system capacity and scaling limitations.[64] Participants from our August 2021 stakeholder panels identified similar challenges.

[63]GAO, *Information Technology: Agencies Need to Develop Modernization Plans for Critical Legacy Systems*, GAO-19-471 (Washington, D.C.: June 11, 2019).

[64]GAO-20-625; GAO-16-430; and GAO, *Information Technology: Department of Labor Could Further Facilitate Modernization of States' Unemployment Insurance Systems*, GAO-12-957 (Washington, D.C.: Sept. 26, 2012).

- **Funding uncertainty**. In our prior reporting, we identified challenges that states reported regarding declining or inconsistent federal and state funding for UI IT modernization, leading to difficulties in project planning.[65] In addition, states reported uncertainties surrounding their ability to procure sufficient funding throughout the entirety of their modernization efforts. Participants from our panel also noted that funding for UI IT modernization has been a constraint for many years. In particular, a panelist noted that federal administrative funding for the regular UI program is not designed to address large systems costs.
- **Staffing limitations**. In our prior reporting, we found that UI IT system development can be hindered by a shortage of staff with technical and project management expertise to manage IT modernization efforts. States also reported difficulties with balancing staff resources to operate legacy systems while operations are established in new systems. Participants from our panel also cited similar challenges. For example, a participant noted that modernization efforts without quality project management often stall and end up costing more. Also, a participant noted that states often underestimate the staffing needs for both implementing and testing a new system upgrade, while concurrently managing the staffing needs that normal UI program operations require. Further, a modernization effort typically requires the top staff to support the effort, but states also need these staff to run the ongoing UI program, creating additional challenges to managing change.
- **Vendor limitations**. In our prior reporting, we identified challenges that states reported related to using vendors for UI modernization efforts, including having too few vendors for selection. Participants from our panel also noted vendor-related challenges due to every state quickly needing to implement the additional CARES Act UI programs with only a small number of vendors in the UI area. In our prior reporting, we also noted that a system developed by a vendor poses challenges to operate and maintain. For example, states reported concerns that they did not have sufficient staff expertise to maintain these systems once vendor staff left.
- **System capacity and scaling limitations**. As mentioned earlier, we previously reported that states faced challenges in ensuring sufficient system capacity to process the unprecedented number of UI claims during the COVID-19 pandemic. According to NASWA officials, this challenge with claims processing was due to states not sufficiently

[65] GAO-16-430 and GAO-12-957.

load-testing their systems to handle large volumes of claims prior to the pandemic. Participants from our August 2021 stakeholder panel also noted limitations in the ability of states to scale their systems to meet increased demand. For example, a panelist noted that states had not previously determined where the slowest components of the UI process were and whether those components could scale up if needed. The panelist added that, as a result, states faced challenges in scaling aspects of their UI systems, such as applicant identity verification.

Risk of UI Improper Payments, Including Those Due to Fraud, Increased during the Pandemic

The risk of improper payments, including those due to fraud, in the regular UI program increased during the pandemic. Prior to the COVID-19 pandemic, DOL regularly reported billions of dollars in annual estimated improper payments in the UI program. DOL reported that the UI program experienced a large increase in estimated amounts of improper payments in fiscal year 2021. DOL OIG and our stakeholder panelists identified factors that contributed to the higher risk of improper payments during the pandemic in the regular UI program, and to the significant risk of improper payments in the pandemic UI programs. These factors included untimely and unclear federal guidance, and insufficient and under-trained state personnel. The full extent of the UI system's improper payments is not presently known because DOL and states have struggled to reliably report improper payments information, and DOL has not yet estimated amounts of improper payments for the PUA and MEUC programs. Furthermore, according to DOL officials and stakeholder panelists, the CARES Act UI programs exacerbated existing fraud risks and also created new fraud risks—mainly related to more sophisticated identity theft schemes.[66] Federal and state entities continue to emphasize the need to prevent, detect, and investigate UI fraud.[67]

[66]Fraud involves obtaining something of value through willful misrepresentation. Whether an act is fraudulent is determined through the judicial or other adjudicative systems. In this report, "fraud risk" includes circumstances that provide an opportunity to commit fraud.

[67]We have ongoing work reviewing the extent of fraud in the UI system.

DOL Has Annually Reported Billions of Dollars in Estimated Improper Payments for the Regular UI Program

For fiscal years 2016 through 2020, DOL annually reported billions of dollars in estimated improper payments for the regular UI program, ranging between 9 and 13 percent of UI benefits. Because of these high estimated improper payment amounts, OMB designated the UI program as a high-priority program for greater levels of oversight and review, including quarterly reporting and inspector general review.

Our analysis of DOL's estimated regular UI program improper payments data for fiscal years 2016 through 2020 (prior to the COVID-19 pandemic) found three primary causes of improper payments:[68]

- Work search. Erroneous payment is made where the claimant fails to actively seek employment.[69]
- Benefit year earnings. Claimant continues to erroneously receive UI benefits after returning to work or fails to accurately report earnings.
- Separation issues. Claimant is ineligible for UI benefits due to separating from employment for a non-qualifying reason, such as voluntarily quitting employment or is discharged for cause.

As shown in table 1, these three primary causes of improper payments accounted for approximately 79 percent of the $15.7 billion in estimated UI improper payments—out of the total $136.1 billion in regular UI benefits paid—during that period.

Table 1: Regular Unemployment Insurance (UI) Estimated Improper Payments (IP), July 1, 2015–Mar. 31, 2020, Nationally

	Percentages		Estimated IP amounts (dollars in billions)		
DOL-reported causes of IP	**UI benefits Paid**	**Estimated UI IP**	**Overpayments**	**Underpayments**	**Total**
Work search	3.9	34.3	5.38	0.00	**5.38**
Benefit year earnings	3.4	29.4	4.48	0.12	**4.60**
Separation issues	1.8	15.4	2.42	0.00	**2.42**
Total top three causes of IP	9.1	79.1	12.27	0.12	**12.39**

[68]DOL uses the BAM process to determine the accuracy of paid and denied UI claims. DOL's fiscal year for reporting improper payment estimates covers July 1 of the previous year through June 30 of the current year. For example, DOL's fiscal year 2020 improper payment estimate generally covers July 1, 2019, through June 30, 2020. However, the sampling and investigation program was suspended for the quarter April 1, 2020, through June 30, 2020, because of operational flexibilities provided to states in response to the pandemic, according to DOL.

[69]Two GAO recommendations to DOL related to work search verification activities remain open, including one priority recommendation. See appendix III.

DOL-reported causes of IP	Percentages		Estimated IP amounts (dollars in billions)		
	UI benefits Paid	Estimated UI IP	Overpayments	Underpayments	Total
Total all causes of IP	**11.5**	**100.0**	**15.09**	**0.57**	**15.66**

Legend:

DOL = Department of Labor
FY = fiscal year

Source: GAO analysis of Department of Labor Benefit Accuracy Measurement data. | GAO-22-105162

Notes: Data may not sum to totals because of rounding.

The total regular UI benefits amounts and estimated improper payment amounts are based on information obtained from DOL's Benefit Accuracy Measurement system for the periods from July 1, 2015 through March 31, 2020. DOL's fiscal year for reporting improper payment estimates covers July 1 of the previous year through June 30 of the current year.

GAO guidance for high-risk designation considers programs to be high risk when a minimum of $1 billion of assets is at risk.[70] In fiscal year 2021, DOL's estimated amount of improper payments for the UI program increased over ninefold, from approximately $8.0 billion in fiscal year 2020 to approximately $78.1 billion in fiscal year 2021. This increase in estimated improper payments resulted from (1) the doubling of the improper payment rate from approximately 9.2 percent in fiscal year 2020, to approximately 18.9 percent in fiscal year 2021; and (2) the increase of reported outlays in the UI program from approximately $86.9 billion in fiscal year 2020 to approximately $413.0 billion in fiscal year 2021.[71] The increase in reported outlays was largely driven by the inclusion of two of the three CARES Act UI programs in the total UI estimate.[72] The outlook for estimated improper payments is not expected to significantly improve for fiscal year 2022. DOL has set the improper payment rate target for fiscal year 2022 at no higher than 17 percent. The improper payment rate for PIIA compliance is less than 10 percent.[73]

[70] GAO-01-159SP.

[71] The source for these outlays is www.paymentaccuracy.gov. The sampling period covers outlays from July 1, 2020 to June 30, 2021.

[72] The estimated improper payment rate for the 2021 UI program was applied to calculate the estimated improper payment amounts for the FPUC and PEUC programs. The estimated improper payment amounts for these two programs were incorporated in the overall estimated improper payment amount for the UI program.

[73] PIIA defines compliance as executive agencies taking various actions, including reporting an improper payment rate of less than 10 percent for each program and activity for which an estimate was published under section 31 U.S.C. § 3352(c). 31 U.S.C. § 3351(2).

DOL OIG and Panelists Identified Factors for Increased Risk of Improper Payments during the Pandemic

DOL OIG and our stakeholder panelists identified several factors that contributed to the higher risk of improper payments during the pandemic in the regular UI program and a significant risk of improper payments in the CARES Act UI programs. These factors included:

- **Untimely and unclear federal guidance**. According to the DOL OIG, states reported the DOL ETA guidance was untimely and unclear, minimizing the guidance's ability to assist states in making decisions about initial and continued eligibility.[74] According to panelists, the pressure states faced to quickly implement PUA and other CARES Act UI program requirements made it difficult to establish sufficient controls ahead of program implementation to prevent improper payments.[75] Some state officials also told us that guidance was issued or changed after the states had begun program implementation, making it difficult to ensure compliance. Panelists added that some state workforce agencies did not fully understand DOL guidance on implementing the new CARES Act UI programs, which panelists stated, led to improper payments. For example, panelists discussed that state agencies may have misunderstood guidelines for CARES Act UI programs outlining allowable reasons for employee separation, which panelists stated expanded the regular UI program guidelines to include quarantined individuals and individuals at risk. Officials from one state we spoke with for our concurrent work on CARES Act UI programs told us that the initial guidance on PUA eligibility and actions states could take in response to suspicious claims could have been improved with more information and examples.
- **Insufficient number of and under-trained state personnel**. Panelists also noted that during the pandemic, some states hired new staff quickly and provided limited training, which may have led to an increase in mistakes in determining claimants' eligibility. State officials we spoke with for our concurrent work on CARES Act UI programs also told us that to address staffing shortages—one of their most urgent needs when claims volume increased—they supplemented their existing staff using one or more of the following strategies: hiring new staff, borrowing staff from other agencies, and contracting for

[74]Department of Labor Office of Inspector General, Report No. 19-21-004-03-315.

[75]The Consolidated Appropriations Act, 2021 created additional program integrity requirements for the CARES Act UI programs, including several new measures related to PUA eligibility. See, e.g., Pub. L. No. 116-260, div. N, tit. II, §§ 241(a), 263(a), 134 Stat. 1182, 1959-60, 1963.

staff. As states increased their staff in response to the surging claims volume, state officials said they shortened the length of training, streamlined training, and adopted other approaches to expedite claims processing.[76] Despite states' efforts to increase their claims processing staff, in some cases, it was not sufficient to handle the increases in claims.

Federal and State Entities Struggled to Report Reliable Improper Payments Data and Identify and Recover Overpayments

DOL and states have faced challenges in reporting reliable improper payments information and developing adequate processes to identify and recover overpayments during the pandemic. The DOL OIG has identified issues related to the suspension of BAM assessments, the current non-reporting of estimated improper payments in certain CARES Act UI programs, incomplete reporting of waived and recovered overpayments, and states' failure to perform required overpayment activities.[77] Thus, the full extent of improper payments for the UI system is not presently known.

- **Suspension of BAM assessments**. Under BAM, states conduct independent assessments of representative samples of paid and denied claims of permanent UI programs to determine the accuracy of UI benefit payments and estimate the amount and rate of improper payments. According to DOL, by conducting these assessments, states can develop and implement corrective actions if the assessments identify improper payments, including potentially fraudulent payments.[78] For fiscal year 2020 reporting, DOL allowed states to suspend these assessments for 3 months (April through June 2020), enabling the states to reassign staff to address increased claims volume. As a result, DOL OIG reported that $64.3 billion (74 percent) of the total $86.9 billion of benefit payments went untested for that fiscal year. The DOL OIG report stated that DOL complied with OMB requirements for fiscal year 2020, including the 3-month

[76] GAO-22-104251.

[77] GAO, *COVID-19: Urgent Actions Needed to Better Ensure an Effective Federal Response*, GAO-21-191 (Washington, D.C.: Nov. 30, 2020). Department of Labor, Office of Inspector General, *COVID-19: States Struggled to Implement CARES Act Unemployment Insurance Programs*. Report No. 19-21-004-03-315 (Washington, D.C.: May 28, 2021).

[78] The state assessments of improper payments include potential fraud; however, states' definitions for categorizing an overpayment as fraudulent vary.

suspension.[79] For fiscal year 2021 reporting, DOL resumed BAM testing for improper payments.

- **Current non-reporting of estimated improper payments in certain CARES Act UI pandemic programs**. As we reported in November 2020, it is especially important for agencies with large appropriated amounts, like DOL, to quickly estimate their improper payments, identify root causes, and develop corrective actions when there are concerns about the possibility that improper payments could be widespread.[80] At that time, we also reported that the DOL OIG recommended that DOL estimate improper payments for CARES Act UI programs; however, DOL made the decision not to include claims filed exclusively under the CARES Act UI programs in the regular UI program for estimating improper payments. As we reported in November 2020, DOL officials informed us that DOL planned to conduct an improper payment risk assessment for CARES Act UI programs after the first year of each CARES Act UI program's operations in accordance with OMB guidance.[81]

  For fiscal year 2021 reporting, DOL included FPUC and PEUC in the approximately $78.1 billion estimated amount of improper payments for the UI program. However, because PUA has unique and distinct eligibility requirements, applying the improper payment methodology for the regular UI program would not be appropriate, according to DOL officials. Officials said they are exploring methods to estimate the rate of improper payments for PUA that will not be overly burdensome for states. DOL officials stated that they are required to submit the improper payment estimation methodology to OMB by June 2022, and

[79]In addition, DOL's OIG reported that an independent auditor had concluded that DOL had met all the statutory criteria for compliance with the Payment Integrity Information Act of 2019. The OIG also reported that DOL had received direction from OMB to utilize the results from the first 3 quarters of the program year for its improper payment reporting in fiscal year 2020 and that DOL's decision to suspend fourth quarter program year testing was approved by OMB. Department of Labor, Office of Inspector General, *The U.S. Department of Labor Complied with the Payment Integrity Information Act for FY 2020, but Reported Unemployment Insurance Information Did Not Represent Total Program Year Expenses*, Report No. 22-21-007-13-001 (Washington, D.C.: Aug. 6, 2021).

[80]GAO-21-191.

[81]According to OMB guidance, agency management is responsible for managing payment integrity risks to reduce improper payments and protect taxpayer funds. The guidance provides that all newly established programs should complete an improper payment risk assessment after the first 12 months of the program. See Office of Management and Budget, *Appendix C to OMB Circular A-123, Requirements for Payment Integrity Improvement*, OMB Memorandum M-21-19 (Washington, D.C.: Mar. 5, 2021).

they plan to include the estimates in DOL's fiscal year 2022 reporting.[82]

Likewise, DOL also did not perform a risk assessment for MEUC during fiscal year 2021, as its total duration did not meet the 12-month threshold established by OMB guidance, according to DOL. DOL will likely not estimate or report improper payments for the MEUC program as it expired in September 2021.

- **Incomplete reporting of waived and recovered overpayments**. DOL reported that, as of March 28, 2022, states and territories had identified approximately $35.1 billion in overpayments made in UI programs during the first 7 quarters of the pandemic combined (April 2020 through December 2021).[83] This $35.1 billion in reported actual overpayments includes
  - $13.3 billion in PUA overpayments,[84]
  - $11.8 billion in FPUC overpayments,[85]
  - $8.1 billion in regular UI and EB overpayments, and

[82]OMB guidance, Appendix C to Circular No. A-123, *Requirements for Payment Integrity Improvement*, directs federal agencies to report information related to improper payment estimates annually. This information is then posted to www.paymentaccuracy.gov.

[83]As we have previously reported, DOL data show that the dollar amount of state-reported overpayments in the regular UI program increased substantially during the pandemic, coinciding with historically high numbers of UI claims. States have also reported large amounts of overpayments in the CARES Act UI programs. Regarding underpayments, states do not report the actual amount of underpayments to DOL. However, states estimate underpayments based on representative samples of paid and denied regular UI claims and report these estimates to DOL.

[84]States and territories report PUA overpayments data to DOL on a monthly basis, and the total amount shown includes overpayments related to identity theft. We accessed the PUA overpayments data on March 28, 2022; these data are subject to change as more states report data and as states revise previously reported data. For consistency with the regular UI overpayment data, which states and territories report on a quarterly basis, the PUA overpayment amount shown is for April 2020 through December 2021. The number of states and territories that have reported PUA overpayments data varies by month.

[85]FPUC benefits were paid in addition to other UI benefits. About 92 percent of reported FPUC overpayment amounts were paid on regular UI or PUA claims.

- $2.0 billion in PEUC overpayments.[86]

States and territories may waive the recovery of overpayments in certain circumstances.[87] Although the data are incomplete, states and territories reported waiving about $1.6 billion of regular UI, EB, PEUC, and FPUC overpayments during the first 7 quarters of the pandemic combined (April 2020 through December 2021).[88] As of March 28, 2022, 24 states had reported some data on waived PUA overpayments, reporting a combined total of about $0.4 billion waived from April 2020 through December 2021. However, additional data on the amounts of PUA overpayments states have waived are needed to effectively monitor the recovery of overpayments.

When states and territories recover overpayments, they report the recovered amount in the period when the recovery occurs. For example, states and territories reported recovering about $0.7 billion in the PEUC and FPUC programs combined from April 2020 through December 2021 (i.e., since the creation of those programs).[89] However, we have found that although DOL has monitored and assisted states with addressing benefit overpayments and potential fraud, it and states needed to implement additional efforts to track the recovery of overpayments.[90] As of March 28, 2022, 39 states and territories had reported some data on recovered PUA overpayments,

[86]Due to rounding, the sum of these overpayment amounts by program differs from the total overpayment amount. States and territories report regular UI, EB, PEUC, and FPUC overpayments data to DOL on a quarterly basis. We accessed the data on March 28, 2022. At that point, not all states and territories had reported overpayment amounts for all programs in all quarters. States and territories may revise the amount of overpayments they have identified for 3 years after the reporting quarter, according to DOL officials.

[87]States were authorized to waive PUA overpayments under the Consolidated Appropriations Act, 2021. According to this act, if an individual receives PUA benefits they were not entitled to, the state must generally require such individuals to repay the amount; however, the state can waive that requirement if the individual was without fault and repayment would be contrary to equity and good conscience. Pub. L. No. 116-260, div. N, tit. II, § 201(d), 134 Stat. 1182, 1952. According to DOL, states are able to retroactively waive PUA overpayments from the beginning of the program onward.

[88]We accessed the waived overpayments data on March 28, 2022; these data are subject to change as more states and territories report data and as states and territories revise previously reported data.

[89]We accessed the recovered overpayments data on March 28, 2022; these data are subject to change as more states and territories report data and as states and territories revise previously reported data.

[90]GAO-22-105397.

including a combined total of about $1.3 billion recovered from April 2020 through December 2021.[91]

In January and March 2021, we recommended, and DOL agreed, that the department collect data from states on the amount of overpayments recovered and waived in the PUA program, similar to the regular UI program. In response to our recommendation, DOL updated state reporting requirements for the PUA program to include the collection of data on recovered and waived PUA overpayments. However, because of the limited number of states and territories that had reported data on recovered and waived PUA overpayments to DOL as of March 28, 2022, our related recommendations remain open. Sustained reporting by more states is needed to help inform DOL, policymakers, and the public about the amount of PUA overpayments that states have waived and recovered and about the amount that remains outstanding.

- **Failure to perform required overpayment recovery activities**. In late May 2021, the DOL OIG reported, among other things, that some states did not perform required overpayment recovery activities.[92] Specifically, the DOL OIG found that 19 states (38 percent) did not perform the required overpayment recovery activities, such as benefit offsets, for the recipients to repay the UI overpayments.[93] The OIG further reported that once states identify overpayments, it is essential that they complete recovery activities to mitigate the risk of financial

[91]The total PUA amount shown also includes recovered overpayments related to identity theft. As of March 28, 2022, states and territories had also reported recovering about $2.0 billion in the regular UI and EB programs from April 2020 through December 2021. However, the amounts recovered for any quarter may be from overpayments established in many previous periods. Thus, the total amount does not measure the extent to which overpayments made during the pandemic have been recovered.

[92]Department of Labor, Office of Inspector General, *COVID-19: States Struggled to Implement CARES Act Unemployment Insurance Programs*, Report No.19-21-004-03-315. (Washington, D.C.: May 28, 2021).

[93]In this case, benefit offsets are benefits withheld by the state agency to satisfy the requirement for the recipient to repay an overpayment.

loss as a result of overpaid claims.[94] The OIG recommended that DOL assist states with reporting of claims, overpayments, and fraud to create clear and accurate information and then use the overpayment and fraud reporting to prioritize and assist states with fraud detection and recovery. DOL agreed with the OIG's recommendation and said it would take steps to implement the recommendation.

CARES Act UI Programs Exacerbated Existing and Created New Fraud Risks

We previously reported that the amount of fraudulent and potentially fraudulent activity in UI programs increased substantially after the three CARES Act UI programs were enacted, relative to the amount of such activity in the regular UI program before the pandemic.[95] The increased amount of benefits awarded and legacy IT systems' inability to adequately guard citizens' sensitive information, gave criminals incentive to commit fraud. DOL officials also identified other factors—including significant increases in claims workload, new and inexperienced staff, and quick implementation of new programs—that provided opportunities for exploitation of program and system vulnerabilities. In addition, officials from DOL and NASWA and our panelists identified new and existing fraud schemes targeting CARES Act UI programs. These fraud schemes are useful for understanding factors contributing to fraud risk in CARES Act UI programs, which we identified through a review of DOL OIG reports, state audit reports, Department of Justice (DOJ) cases, and information discussed during the expert panels. In October 2021, we made several recommendations to DOL regarding fraud risk management in UI and we

[94]DOL has issued various guidance documents during the pandemic related to overpayments, including the following: Department of Labor, *Program Integrity for the Unemployment Insurance (UI) Program and the UI Programs Authorized by the Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020—Federal Pandemic Unemployment Compensation (FPUC), Pandemic Unemployment Assistance (PUA), and Pandemic Emergency Unemployment Compensation (PEUC) Programs*, UIPL 23-20 (Washington, D.C.: May 11, 2020); *Addressing Fraud in the Unemployment Insurance (UI) System and Providing States with Funding to Assist with Efforts to Prevent and Detect Fraud and Identity Theft and Recover Fraud Overpayments in the Pandemic Unemployment Assistance (PUA) and Pandemic Emergency Unemployment Compensation (PEUC) Programs*, UIPL 28-20 (Washington, D.C.: Aug. 31, 2020); *Benefits Held by Banks and Financial Institutions as a Result of Suspicious and/or Potentially Fraudulent Activity and the Proportional Distribution Methodology Required for Recovering/Returning Federally Funded Unemployment Compensation (UC) Program Funds*, UIPL 19-21 (Washington, D.C.: May 4, 2021); and *Grant Opportunity to Support States with Fraud Detection and Prevention, Including Identity Verification and Overpayment Recovery Activities, in All Unemployment Compensation (UC) Programs*, UIPL 22-21 (Washington, D.C.: Aug. 11, 2021).

[95]GAO-22-105051.

continue to monitor the agency's progress in responding to these open recommendations.[96]

Fraud Schemes Identified Targeting CARES Act UI Programs

Examples of Fraud Schemes Targeting CARES Act Unemployment Insurance (UI) Programs

Department of Labor (DOL) officials told us that they have observed the use of new fraud schemes targeting CARES Act UI programs. Multiple panelists also shared information on fraud schemes in CARES Act UI programs.

- Hijacking bank accounts. According to DOL officials, after an individual submits a legitimate application for UI benefits and provides bank account information for the funds' direct deposit, a fraudster will hijack the applicant's UI system account and reroute the deposit from the applicant's bank account to a bank account the fraudster can access. Multiple panelists also discussed fraudsters hijacking bank accounts and referred to this as an account takeover scheme.
- Mimicking state UI websites. According to DOL, when people conduct Internet searches for their state's UI office, they may find, and file claims on, a fraudulent website that looks like the state workforce agency's website, thus providing their personally identifiable information (PII) to fraudsters.
- Email account scheme. According to at least one panelist, an individual may create variations of an email address for fraudulently applying for multiple UI benefits using stolen PII.
- Selling stolen information. Panelists stated that individuals create and sell "how-to" guides on the dark web that provide instructions for fraudulently applying for UI benefits. These guides may include examples of stolen PII that a fraudster can use to submit many fraudulent applications for benefits.

Source: GAO analysis of stakeholder panel. | GAO-22-105162

Officials from DOL and NASWA, and participants in our stakeholder panel, identified new and existing fraud schemes targeting CARES Act UI programs. According to DOL officials, potential fraud in the regular UI program historically involved a misrepresentation of eligibility, such as an employee's failing to report returning to work, failing to report earned wages, or failing to fulfill work search requirements; or an employer's failing to report a reason for separation. Officials stated that although DOL was aware of isolated occurrences of identity-related fraud before the pandemic, such as the use of false identities, it has seen an increase in the frequency and volume of identity-related fraud, as well as significantly more sophisticated identity theft fraud schemes, since the pandemic began (see sidebar).

According to DOL officials, the most common fraud schemes during the pandemic included the use of stolen personally identifiable information (PII) to file a claim or multiple claims; the use of synthetic identities (i.e., real identities mixed with fictitious information); and cybersecurity attacks—including the use of bot attacks in attempts to overwhelm state UI systems or launch phishing schemes—to obtain individual PII to perpetrate future fraud. NASWA officials and panelists also shared concerns about schemes orchestrated by organized crime groups, including those from foreign countries. One panelist, who has been investigating UI fraud at the state level, stated that many fraudsters who had stolen identity information prior to the pandemic saw the CARES Act UI programs as an opportunity to use that information to obtain benefits.

[96]GAO-22-105051.

Factors Contributing to Fraud Risk in CARES Act UI Programs

Our review of DOL OIG reports, state audit reports, and DOJ cases uncovered new and existing fraud risk factors that contributed to an increase in UI fraud during the pandemic.[97] Specifically, we identified the following fraud risk factors in CARES Act UI programs:[98]

- **Reliance on self-certification**. The CARES Act allowed PUA applicants to self-certify aspects of their eligibility and did not require them to provide any documentation of self-employment or prior income.[99] In October 2020, DOL's OIG reported that states cited the PUA self-certification requirement as a top fraud vulnerability.[100] We have previously reported that relying on program participants to self-report and self-certify information on agency forms, instead of verifying such information independently, could cause an agency to miss opportunities to prevent program fraud and abuse.[101]
- **Waiver of waiting period**. During the pandemic, states were encouraged to process and pay claims quickly while experiencing a historic number of claims. Based on federal laws and in an effort to speed claims processing, DOL encouraged states to temporarily suspend the existing waiting period for benefits and the CARES Act generally provided full federal funding for the first week of regular UI benefits to states that did so. According to DOL officials, under the regular UI program, DOL allows states to take up to 21 days to make the first payment of benefits, giving them time to detect potential fraud. Waiving the waiting period meant that some states had less

[97]Stakeholder panelists also discussed identifying and improving the use of resources to address fraud. See appendix IV.

[98]Factors contributing to fraud risk include conditions or actions that are most likely to cause or increase the possibility of fraud. Factors contributing to fraud risk do not necessarily indicate that fraud exists but are often present when fraud occurs.

[99]The Consolidated Appropriations Act, 2021, enacted in December 2020, extended the PUA program and included a requirement that all PUA claimants must submit documentation substantiating employment, self-employment, or the planned commencement of employment or self-employment. Pub. L. No. 116-260, div. N, tit. II, § 241(a), 134 Stat. 1182, 1959-60.

[100]Department of Labor, Office of Inspector General, *COVID-19: States Cite Vulnerabilities in Detecting Fraud While Complying with the CARES Act UI Program Self-Certification Requirement*, Report No. 19-21-001-03-315 (Washington, D.C.: Oct. 21, 2020).

[101]GAO, *Telecommunications: FCC Should Take Action to Better Manage Persistent Fraud Risks in the Schools and Libraries Program*, GAO-20-606 (Washington, D.C.: Sept. 16, 2020.)

time to employ tools for fraud prevention and detection, according to NASWA officials.

- **Low staffing levels**. As noted above, states lacked adequate staffing resources to properly implement the CARES Act UI programs, including processing claims. State agency staffing levels are determined on the basis of claim volume levels in previous years, according to DOL OIG officials. At the start of the pandemic, many state UI programs had been experiencing their lowest claims volume, and thus their lowest staffing and funding levels, since the 1970s. To process the high volume of claims after the pandemic began, many states reassigned benefit payment control staff to claims processing, with the result that few staff were working to prevent and detect fraud, according to DOL OIG officials.
- **Legacy IT systems**. In the beginning of the pandemic, legacy IT systems made it difficult for many states to conduct internal control activities as many of these IT systems lacked the controls needed to prevent cybersecurity attacks or the use of fraudulently obtained identity information, according to DOL OIG officials. These officials stated that some state IT systems were not equipped to handle the volume of claims, and some may not have been easily compatible with the NASWA UI Integrity Center's Integrity Data Hub resources.[102] However, many states have begun using Integrity Data Hub resources since the onset of the pandemic, according to DOL officials.
- **Variation in data analysis across states**. States' use of resources for data mining, cross matching, and identity verification varies. According to DOL officials, the department does not have authority to require states to use the databases available in the UI Integrity Center's Integrity Data Hub, such as the Identify Verification or Multi-State Cross-Match databases. Additionally, not all states were able to cross match claims with federal incarceration data, and many state UI

[102]The Integrity Data Hub is a centralized, multistate data system that the UI Integrity Center operates in partnership with DOL, using DOL funding. The Integrity Data Hub provides state workforce agencies with cross-matching capabilities to analyze UI claims data to detect and prevent UI fraud and improper payments.

offices did not have access to state-level incarceration data.[103] However, according to officials, they have worked with the Social Security Administration to establish a secure data exchange that allows states to cross-match UI claims data with incarceration records. While states' use of these various data matching tools increased during the pandemic, not all states are currently using them, according to DOL officials.[104] Without more consistent use of these tools across states, states may miss opportunities to identify fraudsters.

Status of DOL's Fraud Risk Management Efforts

DOL is aware of fraud risks in CARES Act UI programs, particularly risks of fraudulent claim schemes, but has not comprehensively assessed these fraud risks. In its fiscal year 2020 agency financial report, DOL acknowledged an increase in suspected fraudulent activity—specifically, organized fraud schemes targeting the CARES Act UI programs.[105] In DOL's fiscal year 2021 agency financial report, DOL's OIG identified fraud—specifically, claimants who received UI benefits through fraudulent schemes, such as those perpetrated during the COVID-19 pandemic—as one of the four leading causes of improper payments.

However, as we reported in October 2021, DOL has not comprehensively assessed UI fraud risks in alignment with leading practices or documented a prioritized approach to managing fraud risks.[106] We made several recommendations related to this issue, including that DOL designate a dedicated entity responsible for managing the process of assessing fraud risks to the UI program. DOL neither agreed nor disagreed with these recommendations. In its December 2021 Statement

[103]For example, the state auditor of California reported that the California Employment Development Department was unprepared to guard against inmate fraud in this program because it lacked a system to cross-match all incoming claims against incarceration data. The department estimated that it paid $810 million in benefits to 45,000 claimants who were incarcerated. Auditor of the State of California, *Employment Development Department: Significant Weaknesses in EDD's Approach to Fraud Prevention Have Led to Billions of Dollars in Improper Benefit Payments*, Report 2020-628.2 (Sacramento, Calif.: Jan. 28, 2021).

[104]In March 2020, only three states were participating in Multi-State Cross-Match, compared to 43 states in March 2022, according to DOL officials. Additionally, DOL officials said that the Integrity Data Hub's identity verification services went live in July 2020; 34 states are using the identity verification solution as of March 2022. All states and the DOL OIG participate in the Integrity Data Hub's Fraud alerting capability, according to DOL officials.

[105]Department of Labor, *Agency Financial Report Fiscal Year 2020* (Washington, D.C.: Nov. 16, 2020).

[106]GAO-22-105051.

of Executive Action, DOL reiterated that its Chief Financial Officer and ETA's Assistant Secretary are responsible for risk management in the UI program. In April 2022, DOL officials stated that they are in the process of formally documenting this designation, and these officials' antifraud responsibilities, consistent with our Fraud Risk Framework. DOL also reiterated that it will incorporate the recommended practices and approaches from the Fraud Risk Framework in its risk assessment activities as it moves forward. As of May 2022, these recommendations remain open. We continue to monitor DOL's fraud risk assessment activities and have ongoing work in this area.

DOL officials said they continue to collaborate with a variety of other entities to address fraud prevention, detection, and recovery. For example, as reported in October 2021, officials said they meet regularly with the DOL OIG to discuss emerging UI fraud issues, streamline communication with states, and coordinate fraud prevention and recovery efforts. Further, DOL has issued guidance requiring states to share claims data with the DOL OIG relating to the federal pandemic-related UI programs. In addition, officials said they continue to participate in biweekly banking work group calls to discuss ongoing recovery efforts and improve communication among banking organizations, federal government agencies, and law enforcement agencies.

Multiple panelists stated that they believe UI fraud will continue to evolve as states adopt new controls, and now that fraudsters have gained experience with how to take advantage of the UI program, panelists expect higher levels of fraud to persist after the pandemic. As we reported in October 2021, without conducting a fraud risk assessment that includes the CARES Act UI programs, DOL lacks reasonable assurance that it has identified the most significant fraud risks for the regular UI program that will exist after the pandemic. Further, until DOL has a dedicated antifraud entity responsible for managing the fraud risk assessment process, consistent with leading practices, the department may not be well positioned to strategically manage UI fraud risks. In addition, incorporating this assessment in a documented fraud risk profile and its broader antifraud strategy would position DOL to deal more effectively with any future emergency UI programs.

Federal and State Entities Continue to Investigate UI Fraud

Federal and state entities continue to investigate and report on high levels of fraud, potential fraud, and fraud risks in the UI programs. For example:

- As of March 17, 2022, DOL OIG reported opening more than 38,000 investigative matters involving alleged UI fraud. In addition, the DOL

OIG reported that as of February 2022, its UI investigations have resulted in over $830 million in investigative monetary results.

- DOL OIG efforts have also identified billions of dollars in potential UI fraud under investigation. For example, in June 2021, DOL's OIG reported that it had identified about $17 billion of potentially fraudulent UI benefits paid from March 2020 through October 2020 in the following four areas: (1) multi-state claimants, (2) Social Security numbers of deceased individuals, (3) federal prisoners, and (4) suspicious email accounts.[107] The DOL OIG has a number of ongoing and planned efforts examining UI, including coordination with law enforcement to address UI fraud.
- In addition, since March 2020, DOJ has publicly announced charges in numerous fraud-related cases related to the UI programs. Specifically, from March 2020 through January 2022, at least 146 individuals pleaded guilty to federal charges of defrauding UI programs, and federal charges were pending against at least 249 individuals.[108]

Several state auditors have also reported on fraud, potential fraud, and fraud risks in the UI programs. For example, state auditors in California, Kansas, and Louisiana identified millions of dollars in potentially fraudulent payments.[109]

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[107]This amount differs from what we have previously reported due to clarification we received from the DOL OIG in May 2022. For more information, see Department of Labor, Office of Inspector General, *Alert Memorandum: The Employment and Training Administration Needs to Issue Guidance to Ensure State Workforce Agencies Provide Requested Unemployment Insurance Data to the Office of Inspector General*, Report No. 19-21-005-03-315 (Washington, D.C.: June 16, 2021).

[108]Of the at least 146 individuals who pleaded guilty, at least 93 had been sentenced as of January 31, 2022. Sentences varied. For example, in one case of UI fraud, an individual was sentenced to 1 year of probation and an order to pay a $2,000 fine and over $16,000 in restitution. In another case, an individual was sentenced to 108 months in prison and an order to pay over $455,000 in restitution.

[109]Auditor of the State of California, *Employment Development Department: Significant Weaknesses in EDD's Approach to Fraud Prevention Have Led to Billions of Dollars in Improper Benefit Payments*, Report 2020-628.2 (Sacramento, Calif.: Jan. 28, 2021). Louisiana Legislative Auditor, Louisiana Workforce Commission, *Improper Payments in the Unemployment Insurance Program: Ineligible Incarcerated Recipients*, (Baton Rouge, La.: Apr. 28, 2021). Kansas Legislative Division of Post Audit, *Evaluating the Kansas Department of Labor's Response to COVID-19 Unemployment Claims (Part I),* Report No. R-21-003 (Topeka, Kans. Feb. 2021).

Sustained Action Is Critical to Address Risks to UI System

As a result of the many challenges facing the UI system that we and others have identified, and that are discussed in greater detail above, we have determined that the UI system is in need of transformation and should be on our High-Risk List. In designating a program as high-risk, we consider: (1) qualitative factors such as whether risks could result in significantly impaired service delivery; (2) exposure to financial loss; and (3) effectiveness of corrective measures that are planned or underway. Moving forward, DOL can address these risks through a coordinated and sustained approach to ensuring progress in leadership commitment, capacity, action plans, monitoring, and significant improvements in program performance and integrity.

As detailed above, challenges we and others have identified are extensive enough to pose significant risk to UI service delivery and have exposed the UI system to potentially significant financial losses. In summary:

- **Service delivery**. Supporting workers who become unemployed and stabilizing the economy are at the core of the UI system's mission. However, as stated above, we and others have reported on chronic management and resource challenges the UI system has faced, including inequities in the system, outdated IT infrastructure, and staffing limitations. During the pandemic, historic and urgent demand for services and the need to implement new and expanded UI benefits overwhelmed states, causing benefit payment timeliness to plummet and significantly straining customer service. Although the scale of the demand placed on the UI system was unprecedented, these challenges exacerbated inherent risks in the program that challenge its ability to respond effectively to economic downturns and to ensure equity in service delivery across states and worker groups.
- **Financial loss**. As previously stated, prior to the pandemic DOL regularly estimated that improper payments in the regular UI program totaled billions of dollars annually. In fiscal year 2021, during the pandemic, DOL reported that the estimated UI improper payment rate doubled, and due to the historic demand for UI, the amount of estimated improper payments was almost 10 times the previous fiscal year's estimate.[110] DOL expects this elevated improper payment rate to continue for fiscal year 2022. In addition, states have reported billions of dollars in established overpayments in the PUA program,

[110]As stated above, the estimated improper payments for the 2021 UI program includes improper payment estimations for the FPUC and PEUC programs, but does not include PUA and MEUC improper payments.

which is not included in DOL's estimates of improper payments. Furthermore, caused in part by the need to meet the urgent demand for unemployment support, the magnitude of potential financial loss during the pandemic has likely weakened public confidence in the integrity of the UI system.

In designating the UI system as high risk, we also considered actions that DOL could take to help address challenges. These actions can be grouped in the areas of: leadership commitment, capacity, action plan, monitoring, and demonstrating progress. DOL has some activities planned and underway that may address the risks we have identified, and our most recent recommendations also offer guidance for future agency efforts. However, developing lasting and system-wide solutions, by utilizing a coordinated and sustained approach and working closely with all states as appropriate, is important to meet the vision for improvements outlined in DOL's UI modernization plan. If DOL determines legislative action is needed, providing technical assistance to Congress could also be helpful.

Leadership commitment. As noted above, our work and the work of the DOL OIG have identified the need for DOL to improve its leadership and coordination of actions to address risks to UI program access, claims processing, and program integrity. DOL leadership has acknowledged the need for significant reform of the UI system. In its fiscal year 2022 and 2023 congressional budget justifications, DOL stated the need for "reforms is urgent, and the Administration is eager to work with Congress on broad changes to modernize the [UI] program as well as advance racial, geographic, and gender equity in the UI system." On August 31, 2021, DOL announced the establishment of the Office of Unemployment Insurance Modernization within the Office of the Secretary to provide strategic leadership as the department works with state agencies and federal partners to implement the strategic vision outlined in its UI modernization plan. The office is also providing oversight and management of $2 billion in funds from the American Rescue Plan Act of 2021 to prevent and detect fraud, promote equitable access, and ensure timely benefits payments, according to DOL.

The formation and work of this office are promising signals of DOL's commitment to modernization and reform of the UI system. Sustained activity and attention will be critical to the success of the effort. However, according to DOL officials, the Office of UI Modernization is temporary and consists of a small leadership team that is working to facilitate progress and coordinate efforts across DOL entities. Moreover, officials told us that they do not have long-term timelines for planned activities due to the temporary nature of the office's role, and that they expected the longer-term modernization effort would eventually be led by ETA's Office of Unemployment Insurance. A long-term strategic plan and sustained leadership are critical to ensure fulfillment of the vision outlined in DOL's UI modernization plan. In addition, as we and the DOL OIG have reported, past UI modernization efforts have had mixed results because of challenges faced by states.

Capacity. Limitations in state and federal capacity have been recurring findings in our UI reports and those of the DOL OIG, especially related to ensuring the UI system responds effectively to economic downturns, as discussed above. UI is a federal-state partnership, and according to DOL, state statutes establish specific benefit structures, eligibility provisions, benefit amounts, and other aspects of the program. Although state standards can vary, DOL helps to ensure states' compliance with federal requirements and provides guidance, technical assistance, funding for state administration through grants, and other support to states. In addition, we and the DOL OIG have reported on specific capacity challenges that affect the ability of states to effectively administer the program, especially during economic downturns.

- **Staffing limitations**. We have reported on states' challenges with providing effective customer service and how economic downturns including the pandemic significantly exacerbated these challenges.[111] Too few call center and claims processing staff, turnover, and insufficient time to train new staff can have significant consequences, including delaying payments, claimant frustration, and processing mistakes. As we previously noted, stakeholder panelists stated that insufficient federal funding for UI administration has resulted in state unemployment agencies being understaffed and that the high demand for UI during the pandemic also strained DOL's staff capacity to support states. Providing for staffing levels at the state and federal levels that are adequate to meet demand for UI during all phases of the economic cycle is critical to ensuring effective service delivery.
- **Outdated IT infrastructure**. To perform core program functions, state UI agencies rely extensively on IT systems, many of which are legacy systems, as discussed in detail above. A lack of effective IT infrastructure limits the ability of states to process claims efficiently, increases the risk of processing errors, fraud, and security

[111]See GAO-16-430 and GAO-22-104251.

vulnerabilities, and may pose a privacy risk for claimants. As previously noted, the DOL OIG reported during the pandemic that officials in 17 of 50 states and territories said their IT systems were not sufficient to implement provisions of the CARES Act and several states reported their IT systems were not able to complete improper payments detection and recovery. DOL has taken steps in the past to provide administrative funding, when available, and technical support to state agencies to assist with UI IT modernization efforts. However, we have previously identified challenges states reported related to inconsistent funding. We and the DOL OIG also have ongoing work specifically examining UI IT modernization efforts.

- **Effectiveness of benefit triggers to respond to economic downturns**. As previously stated, participants in our stakeholder panels noted limitations of the EB program's effectiveness amidst changing national economic conditions. Stabilizing the economy during economic downturns is a critical mission of the UI program, which entails the UI system having sufficient flexibility and effective triggers to provide additional support to workers when most needed.

As mentioned earlier, the American Rescue Plan Act of 2021 appropriated $2 billion for DOL to detect and prevent fraud, promote equitable access, and ensure the timely payment of UI benefits. DOL has used some of this funding to provide technical assistance teams and grant opportunities to states to enhance fraud prevention and equitable and timely access to benefits. Some of these efforts may increase staff and other capacity. DOL has also used some of this funding to support states in modernizing their IT systems, including beginning efforts to develop modular technology solutions that can be integrated with state IT systems and a blueprint for the UI customer experience.[112] These are positive initial steps. However, lasting and system-wide solutions are important to meet the vision for infrastructure improvements outlined in DOL's UI modernization plan.

Action plan. DOL outlined several principles for reform of the UI system in its fiscal year 2022 and 2023 congressional budget justifications, including the need for a modern system to provide adequate benefits in every state, be easily scalable and respond automatically to economic downturns, reflect the modern economy and labor force, and ensure

[112]See Department of Labor, *Announcing Grant Awards Made to States Selected to Participate in the Unemployment Insurance (UI) Information Technology (IT) Modernization Project - Claimant Experience Pilot*, TEN No. 16-21 (Washington, D.C.: Dec. 2, 2021).

access and integrity before the next crisis. These principles represent a vision for action. In addition, in April 2022, DOL released an Equity Action Plan, which among other things, outlined existing barriers to equitable outcomes in the UI system and summarized DOL's ongoing and planned actions to advance equity and support marginalized, vulnerable, and underserved communities. However, as noted in a new report we are issuing concurrently with this report, DOL has not yet conducted comprehensive analyses of the extent of or potential causes of system-wide disparities in benefit receipt or options for supporting nontraditional workers and reflecting a modern economy.[113] In addition, we have reported that DOL has not comprehensively assessed UI fraud risks in alignment with leading practices as provided in our Fraud Risk Framework.[114] Clear plans to identify root causes and potential solutions to the challenges underlying DOL's reform principles are necessary for long-term progress. Implementing our recommendations in these areas could generate useful information for DOL's UI modernization strategic planning and sequencing of activities.

Monitoring. Identifying and validating the effectiveness of DOL's efforts are key components of ensuring progress. DOL collects a variety of data from states related to UI claims, compensation, payment timeliness, established overpayments, and other information. However, we have identified some limitations in the completeness and accuracy of the information DOL has at its disposal.[115] We have made several recommendations related to obtaining more accurate and complete data on the number of people who receive benefits and the amount of PUA overpayments that were recovered and waived.[116] In these reports we have also reported on some states' challenges to report data during the pandemic, and in a report being issued concurrently with this report, the limitations of data DOL collects related to claimant demographics.[117] In another concurrent report we are recommending that DOL obtain information about customer service challenges during the pandemic to

[113]GAO-22-104438.

[114]GAO, *A Framework for Managing Fraud Risks in Federal Programs,* GAO-15-593SP, (Washington, D.C.: Jul. 28, 2015) and GAO-22-105051.

[115]GAO-22-105397 and GAO-22-104438.

[116]GAO-21-191, GAO-21-265, and GAO-21-387.

[117]GAO-22-104438.

identify best practices for helping claimants.[118] Implementing our recommendations in these areas could provide quality baseline information about the UI program, including performance during the pandemic. Monitoring the effectiveness of DOL's UI modernization activities will need a continuous effort to obtain high-quality and potentially new data related to DOL's UI reform principles.

Demonstrated progress. Implementing our UI-related recommendations and those of the DOL OIG, will demonstrate progress in areas that align with DOL's principles and vision for UI reform and are critical for resolving the significant risks in the UI system. Progress will necessitate DOL working closely with states and other partners within its authorities, and if DOL determines legislative action is needed to facilitate progress in some areas, working closely with Congress to consider options. Among areas where progress is needed are:

- **Reducing the improper payment rate**. As we discussed above, the estimated regular UI improper payment rate was high—9.2 percent—prior to the pandemic and then more than doubled—18.9 percent—during the pandemic. According to DOL, improper payment rates are expected to remain at elevated levels in fiscal year 2022, and DOL set the 2022 target improper payment rate at no higher than 17 percent.
- **Advancing equity in the UI system, including across racial and ethnic groups and states**. Benefit amounts and recipiency rates vary substantially by state, and we and others have found evidence of racial, ethnic, and gender disparities in the receipt of benefits.[119] DOL has also stated that the need for UI reforms is urgent, including to advance racial, geographic, and gender equity in the UI system.
- **Better reaching current worker populations and reflecting the modern economy**. As we discussed above, according to DOL, the percentage of unemployed workers filing for UI benefits (the recipiency rate) has generally declined from almost 55 percent in 1958 to just 28 percent in 2019, prior to the pandemic. Although the decline is a result of a number of factors, DOL emphasized in its fiscal year 2022 and 2023 congressional budget justifications that "the UI system must reflect the modern economy and labor force… [and find] a way to address the lack of support in the existing UI system for

[118]GAO-22-104251.

[119]GAO-22-104438.

many workers, including independent contractors, low-income and part-time workers, and workers with nontraditional work histories."

- **Restoring pre-pandemic payment timeliness levels**. As we discussed above, in March 2020, prior to the spike in UI demand during the pandemic, almost all regular UI claimants received their first benefit payments within 3 weeks of their first being eligible. Timeliness of regular UI first payments plummeted early in the pandemic. In June 2020, just about half of regular UI claimants received their first benefit payments within 3 weeks. Timeliness of regular UI first payments fluctuated since then, and in February 2022, remained well below DOL's acceptable level of performance.
- **Improving response to economic downturns**. As stated above, the pandemic placed tremendous strain on the UI system and overwhelmed state efforts to provide benefits in a timely manner while implementing new emergency UI benefit programs. According to state officials, their experiences implementing these programs were further complicated by DOL's unclear guidance. Avoiding a repetition of challenges faced during the pandemic necessitates proactive improvements before the next economic downturn.

Federal internal control standards state that management should remediate identified internal control deficiencies on a timely basis and also should establish an organizational structure, assign responsibility, and delegate authority to achieve the entity's objectives.[120] As part of this, it is critical that an agency has effective strategic planning to help assure that program operations achieve an entity's mission. As the country works to emerge from the pandemic, continued economic instability and structural changes to the labor force are possible. Leaving known UI challenges unaddressed will continue to place the UI system in a position of heightened risk of not meeting fundamental program expectations of serving workers and the broader economy and responsibly stewarding governmental funds.

[120] GAO-14-704G.

Panelists Offered Options to Transform UI Design, Systems, and Integrity; Several Considerations Could Be Used to Assess Them

Stakeholders participating in our panel discussion identified specific options for transforming UI programs. These options fell into three main categories: changes to program design to better target UI support, improvements to UI program infrastructure, and enhancements to program integrity.[121] We have identified some broad considerations for assessing the options that may be relevant to department officials and other policymakers as they develop related proposals. For an expanded discussion of stakeholder panelists' suggested options, see appendix IV.

Changes to Program Design to Better Target UI Support

Stakeholder panelists identified a variety of potential changes to better target UI support, including: broadening eligibility and reducing administrative barriers to increase access to UI; changing how benefits are calculated to better target UI benefit amounts; standardizing certain UI requirements and operations across states to increase consistency of UI support; and sufficient funding for UI administration and certain UI benefits (see table 2).

Table 2: Potential Transformation Options Stakeholder Panelists Identified Related to Changing Unemployment Insurance (UI) Program Design

Transformation objective	Potential transformation options identified by stakeholder panelists
Increase access to UI	• Create a new program specifically to cover workers not currently covered by regular UI, such as independent contractors and self-employed workers, to broaden eligibility • Narrow the classification of independent contractors to increase UI coverage • Streamline UI application and employment verification processes, thus reducing administrative barriers to access
Better target UI benefit amounts	• Use a flexible wage-replacement rate to adjust benefits based on economic conditions and income level

[121] We identified options for UI transformation based on our analysis of the stakeholder panel discussions. These options for transformation are not listed in any specific rank or order, and their inclusion in this report should not be interpreted as GAO endorsing any of them. Implementing any one transformation option or a combination of options might require additional efforts to address program design or legal issues. We did not assess how effective the potential transformation options may be, or the extent to which legal changes and federal financial support would be needed to implement them. Options presented do not represent a consensus among panelists, but instead represent options presented by at least one panelist and then, in most cases, discussion by the group as a whole.

Transformation objective	Potential transformation options identified by stakeholder panelists
Increase consistency of UI support	• Federalize the UI system • Tighten federal standards for state UI programs • Revise triggers for the Extended Benefits program and set parameters for other recessionary expansions to make UI expansions more automatic and consistent across states
Ensure sufficient UI funding	• Increase federal funding for UI administration[a] • Provide federal funding for certain UI benefits • Require employee contributions to UI

Source: GAO analysis of stakeholder statements. | GAO-22-105162

Note: We identified transformation objectives based on our analysis of the stakeholder panelists' proposed transformation options. These potential transformation options are not listed in any specific rank or order and their inclusion in this report should not be interpreted as GAO endorsing any of them. We did not assess how effective the potential transformation options may be or the extent to which program design modifications, legal changes, and federal financial support would be needed to implement any given transformation option or combination of transformation options. Options presented do not represent a consensus among panelists but instead represent options presented by at least one panelist and then, in most cases, discussion by the group as a whole.

[a]The Department of Labor's (DOL) fiscal year 2023 budget justification noted that the factors included in DOL's formula for estimating state administrative funding had not been updated in decades, and proposed updates to two of these factors. Specifically, the budget justification stated that outdated measures of claims processing rates and staff salary rates had resulted in state administrative funding estimates that were not reflective of current administrative costs. According to DOL, the use of these outdated factors consistently left states underfunded, which contributed to them not being prepared for the surge in claims from the pandemic.

Improvements to UI Systems Infrastructure

As discussed earlier, we and others have reported that states have faced challenges in modernizing their UI IT systems. Stakeholder panelists identified strategies to help improve UI system infrastructure, including options to overcome challenges associated with modernizing IT systems (see table 3).

Table 3: Potential Transformation Options Stakeholder Panelists Identified Related to Improving Unemployment Insurance (UI) System Infrastructure

Transformation objective	Potential transformation options identified by stakeholder panelists
Improving and modernizing IT systems	• Increase the focus on the user experience in state UI IT systems[a] • Ensure that staff have project and product management expertise[b] • Use incremental or modular development and implementation practices[c] • Establish well-defined modernization outcome goals

Source: GAO analysis of stakeholder statements. | GAO-22-105162

Note: We identified transformation objectives based on our analysis of the stakeholders' proposed transformation options. These potential transformation options are not listed in any specific rank or order and their inclusion in this report should not be interpreted as GAO endorsing any of them. We did not assess how effective the potential transformation options may be or the extent to which program design modifications, legal changes, and federal financial support would be needed to implement any given transformation option or combination of transformation options. Options presented do not represent a consensus among panelists but instead represent options presented by at least one panelist and then, in most cases, discussion by the group as a whole.

[a]User experience testing can occur as part of usability testing. Usability testing refers to evaluating a product or service by testing it with representative users. Typically, during a test, participants will try to complete typical tasks while observers watch, listen, and take notes. The goal is to identify any usability problems, collect qualitative and quantitative data, and determine the participant's satisfaction with the product.

[b]Product management is the practice of identifying customer requirements, prioritizing those requirements, and interfacing with product owners to confirm alignment between the software components and enterprise goals.

[c]Incremental or modular development is where an investment may be broken down into discrete projects, increments, or useful segments, each of which are undertaken to develop and implement the products and capabilities that the larger investment must deliver. Dividing investments into smaller parts helps to reduce investment risk, deliver capabilities more rapidly, and permit easier adoption of newer and emerging technologies.

Enhancements to UI Program Integrity

Stakeholder panelists identified strategies to help strengthen internal controls and improve the use of resources to address fraud (see table 4).

Table 4: Potential Transformation Options Stakeholders Identified Related to Enhancing Unemployment Insurance (UI) System Integrity

Transformation objective	Potential transformation options identified by stakeholder panelists
Strengthening existing internal controls	• Improve communication and guidance • Maintain employer verification requirements
Identifying and improving the use of resources to address fraud	• Improve identity verification • Obtain additional data sources for analytics • Obtain additional information on fraud schemes • Encourage states' use of UI Integrity Center's Integrity Data Hub • Provide additional training • Improve workforce planning • Provide additional resources to investigate and prosecute fraud

Source: GAO analysis of stakeholder statements. | GAO-22-105162

Note: We identified transformation objectives based on our analysis of the stakeholders' proposed transformation options. These potential transformation options are not listed in any specific rank or order and their inclusion in this report should not be interpreted as GAO endorsing any of them. We did not assess how effective the potential transformation options may be or the extent to which program design modifications, legal changes, and federal financial support would be needed to implement any given transformation option or combination of transformation options. Options presented do not represent a consensus among panelists but instead represent options presented by at least one panelist and then, in most cases, discussion by the group as a whole.

Considerations for Assessing Options for UI Transformation

We identified some broad considerations that may be relevant for policymakers and others to consider when reviewing options for transforming UI programs (see table 5). These considerations, such as comprehensiveness and flexibility, can be used to assess key aspects of different options for transformation. We identified these considerations based on the panel discussions as well as a review of selected literature and UI transformation proposals. These considerations are not intended to cover all possible considerations, and is not intended to assign a weight to the different considerations.

Table 5: Considerations for Assessing Unemployment Insurance (UI) Proposals

Consideration	Example/Description of consideration
Comprehensiveness	To what extent will participation in the UI program reflect the current U.S. workforce?
Flexibility	To what extent could the UI program change with the state of the economy?
Funding	The risk to the taxpayer and likelihood of deficit financing.
Provision of stimulus	To what extent could the UI program provide a stabilizing effect on the U.S. economy during economic downturns?
Practicality	To what extent will the UI program minimize administrative burden and use reliable data for key metrics?
Sufficiency	To what extent will UI benefit levels and duration reduce financial hardship by compensating for lost income?
Unintended effects	To what extent will the UI program take account of incentives to limit duration of unemployment spells?

Source: GAO analysis of stakeholder panel discussion. | GAO-22-105162

Some of the broad considerations we identified align with the principles that DOL plans to use to guide its UI modernization efforts. DOL outlined these principles in its fiscal year 2023 budget justifications and August 2021 UI modernization plan.[122] These principles include the following:

- ensuring adequate benefit levels and duration for unemployed workers;
- ensuring the UI system can ramp up quickly and automatically in response to recessions;
- addressing the lack of access to UI for workers misclassified as independent contractors, low-income and part-time workers, and workers with non-traditional work histories;
- ensuring the long term solvency of UI trust funds;
- investing in expanded reemployment services; and

[122]Department of Labor, *Fiscal Year 2023 Congressional Budget Justification, Employment and Training Administration, State Unemployment Insurance and Employment Service Operations*, https://www.dol.gov/sites/dolgov/files/general/budget/2023/CBJ-2023-V1-07.pdf. Also see Department of Labor, *Fact Sheet: Unemployment Insurance Modernization: American Rescue Plan Act Funding for Timely, Accurate and Equitable Payment in Unemployment Compensation Programs* (Washington, D.C.: Aug. 11, 2021).

- improving UI program access and integrity.

Conclusions

The COVID-19 pandemic caused states to face challenges processing a historically high number of UI claims and ensuring that eligible individuals received the appropriate amount of benefits in a timely way. The unprecedented demand for UI benefits, coupled with programmatic flexibilities—such as the waiving of work search requirements, and PUA's reliance on self-certification—during the pandemic that increased risks of improper payments, including those due to fraud, have added to the UI system's long-standing challenges of balancing effective service delivery and program integrity. These challenges highlight the need for transformation and improved federal and state management to better support the purpose of the UI system.

Program risks associated with regular UI—including administrative challenges with providing customer service and timely processing of UI benefits, and outdated IT systems—have hindered the program's ability to efficiently and effectively fulfill its purpose, and the pandemic exacerbated these issues in all UI programs. Moreover, the risks associated with improper payments and fraud, both in regular UI and in the now-expired CARES Act UI programs, have exposed the programs to potentially significant financial losses. Accordingly, as transformation is necessary, we are designating the UI system as a new area to be added to our High-Risk List, and will continue to monitor DOL's progress in meeting the five criteria for removal from the list. DOL's UI modernization plan, and its efforts to work with states to address fraud, advance equity, and modernize IT systems, are steps in the right direction to help resolve the persistent problems in the UI system; however, further efforts and sustained action to address recurring UI issues would help to stabilize the programs and prevent future disruptions to UI administration during economic downturns.

Recommendation for Executive Action

The Secretary of Labor should develop and execute a transformation plan that meets GAO's high risk criteria for transformation; the plan should outline coordinated and sustained actions to address issues related to providing effective service and mitigating financial risk, including ways to demonstrate improvements. Planned actions may include addressing audit recommendations, and determining whether legislative changes are needed, as appropriate. Planned actions may also include achieving quantifiable results in reducing improper payment rates, including those related to fraud; improving efficiency in claims processing and restoring pre-pandemic payment timeliness levels; better reaching current worker populations; and enhancing equity in benefit distribution. (Recommendation 1)

Agency Comments and Our Evaluation

We provided a draft of this report to DOL for review and comment. We also provided drafts of applicable sections of the report to each of the panelists that participated in our discussions. We received written comments from DOL that are reproduced in appendix II and summarized below. DOL and the panelists also provided technical comments, which we incorporated, as appropriate.

In its comments, DOL noted that states were not prepared to respond to the unprecedented level of unemployment caused by the COVID-19 pandemic and as a result, customer service suffered, benefits were delayed, and criminals attacked the system perpetrating unacceptable fraud. DOL stated that it is building on investments, such as pursuing more appropriate administrative funding for states and actively working to help states modernize their IT systems, to ensure states are better prepared for future economic downturns.

DOL also stated that our report incorrectly implies that DOL had, and continues to have, funding available to provide all states with funding for IT modernization. DOL also disagreed with our characterization of the department-issued guidance for temporary pandemic programs as "untimely and unclear." We accepted some of DOL's technical comments, and nevertheless, we maintain that our characterization of these findings is consistent with the supporting evidence, including from sources such as the DOL OIG and state officials. DOL also emphasized that the UI system is chronically underfunded, and that DOL recognized lack of training for new programs as a risk and worked to address it as quickly as possible.

DOL agreed with our recommendation to develop and execute a transformation plan that meets GAO's high-risk criteria for transformation, and that outlines coordinated and sustained actions to address issues related to providing effective service and mitigating financial risk, including ways to demonstrate improvements. DOL highlighted initiatives that are responsive to our recommendation, such as efforts aimed at reducing improper payments and combating fraud; enhancing equity in program access and benefit distribution; and improving efficiency in claims processing, among others. We recognize that DOL has valuable efforts under way, and we encourage DOL to continue to pursue efforts to transform the UI system to help meet, in part, the criteria for removal from the GAO high-risk list. These actions, if implemented effectively, would help address our recommendation.

We are sending copies of this report to the appropriate congressional committees, the Secretary of Labor, the Office of Management and Budget, and other relevant agencies. In addition, the report is available at no charge on the GAO website at https://www.gao.gov.

If you or your staff have any questions about this report, please contact Thomas Costa, (202) 512-4769, costat@gao.gov or Mary Hannah Padilla, (202) 512-5683, padillah@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix V.

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Appendix I: Objectives, Scope, and Methodology

This report examines (1) challenges related to unemployment insurance (UI) system's ability to respond to the needs of unemployed workers and to changing economic conditions; (2) the risk of improper payments, including from fraud, in UI programs; (3) the extent to which challenges place the UI system at risk of significantly impaired performance and financial loss, and what progress is needed to address this risk; and (4) potential options for transformation that can be applied to UI programs, based on the views and perspectives shared in stakeholder panels.

To accomplish our first objective, we reviewed audit products by GAO,[1] the Department of Labor (DOL) Office of Inspector General (OIG), and state audit agencies to determine the challenges that DOL and states face, including IT system constraints, in responding to unemployed workers' needs and to changing economic conditions. We selected these audit reports for their recent and relevant information on UI customer service delivery, claims processing and IT operations. Most of these audit products were published since September 2016, with a few exceptions to help ensure we reported information for all topics within our scope. (See the list of related GAO products at the end of this report.) We also reviewed published articles related to UI and developed or recommended by our panelists to identify both the historical and recent challenges the UI system has faced in addressing the needs of unemployed workers and the role the system has played in the larger economy.

For the second objective, we reviewed relevant federal law and Office of Management and Budget (OMB) guidance to identify the requirements that agencies must satisfy for improper payments reporting. In addition, we reviewed audit products, mostly published after September 2016, by GAO and the DOL OIG to determine the risks that DOL and states face regarding improper payments, including from fraud. We also analyzed improper payment estimates from both DOL UI websites and OMB's PaymentAccuracy.gov website. We assessed the reliability of the data by reviewing DOL's documentation and the DOL OIG audit reports on the quality of the estimates. We determined that the estimates were sufficiently reliable for the purposes of this report; however, we also note the limitations of the estimates, as described in GAO guidance.[2]

[1]The scope and methodology for GAO products we reviewed are contained in the respective reports. See the list of Related Products for key GAO reports.

[2]GAO, *Assessing Data Reliability*, GAO-20-283G (Washington, D.C.: Dec. 16, 2019).

For the third objective, we drew from the previously mentioned GAO and DOL OIG reports on UI-related issues, and the analyses and information contained in this report and our two other UI-related reports we are issuing concurrently with this report.[3] We also met with DOL officials to discuss ongoing and planned activities to address challenges identified in these reports. To determine whether UI should be on the High-Risk List, we compared our findings from prior reports, DOL OIG reports, and this work with the criteria for determining whether a government program or function is high risk.[4] We also considered federal internal control standards for monitoring during our review.[5]

Stakeholder Roundtable Discussions

To address objectives 1, 2, and 4, we also convened a 2-day virtual roundtable composed of 16 stakeholder panelists whom we selected from government, the private sector, public-private partnerships, and academia to discuss topics related to transforming UI programs.

Selection of Panelists

We used multiple selection criteria to achieve diversity of views and experience among the panelists. To develop our list of potential participants, we solicited suggestions from GAO staff with subject-matter expertise, including expertise in program administration, fraudulent payments, financial managements, economics, methodological approaches, and information technology, to provide suggestions for five to 10 potential panelists who would have knowledge of the UI system. Based on these suggestions, we created an initial list of 55 potential panelists. We gathered data points on each potential panelist based on, among other things, stakeholder perspective, sector representation, years and types of experience, area of expertise, race and ethnicity, gender, institutional affiliations, and published works that we used as criteria for selecting panelists to invite. Using this information, we narrowed down the list of 55 potential panelists suggested by the GAO mission teams into a diversified list of 24 potential panelists. These potential panelists included academic researchers, program evaluators, labor economists, former federal agency officials, investigators, and state and local practitioners.[6]

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[3]GAO-22-104438 and GAO-22-104251.

[4]GAO, *Determining Performance and Accountability Challenges and High Risks*, GAO-01-159SP (Washington, D.C.: Nov. 1, 2000).

[5]GAO, *Standards for Internal Control in the Federal Government*, GAO-14-704G. (Washington, D.C.: Sept. 10, 2014).

[6]The comments of the stakeholders represented the views of the stakeholders themselves and not the organizations with which they were affiliated at the time of the roundtables, and are not generalizable to the views of others in the field.

We contacted these 24 potential panelists to discuss their availability and interest in the roundtable discussions. We then invited the interested stakeholders to participate in our panel discussions, and 16 accepted our invitation. The 16 stakeholders who participated in the roundtables and their affiliations at the time of the roundtables are listed in table 6.

Table 6: List of Stakeholder Panelists in GAO Roundtables to Identify Unemployment Insurance Challenges and Options for Transformation, Held Aug. 4-5, 2021, Titles, and Institutional Affiliation at the Time of Roundtables

Panelist	Title	Institutional affiliation
Rebecca Dixon	Executive Director	National Employment Law Project (NELP)
Arindrajit Dube	Professor of Economics	University of Massachusetts
Michele Evermore	Deputy Director for Policy	Department of Labor (DOL), Office of Unemployment Insurance Modernization
Gay Gilbert	Former UI Administrator	DOL
Doug Holmes	President	Unemployment and Workers' Compensation (UWC)
Elliot Lewis	Former Assistant Inspector General for Audit	DOL Office of Inspector General
Chris Magee	Performance Audit Data Analytics Manager	Office of the Louisiana State Auditor
Ioana Marinescu	Economist	University of Pennsylvania
Bruce Meyer	McCormick Foundation Professor	The Harris School of Public Policy, University of Chicago
Marina Nitze	Public Interest Technology Fellow	New America
Jennifer Pahlka	Founder and Former Executive Director	Code for America
Ben Peirce	Vice President	National Association of State Workforce Agencies' (NASWA) Technology Services and Programs
Jesse Rothstein	Professor of Public Policy & Economics	University of California, Berkley
Doug Swetnam	Section Chief	Data Privacy and Identity Theft Unit, Office of the Indiana Attorney General
Beth Townsend	Chair / Executive Director	NASWA's UI Committee / Iowa's Workforce Development
Stephen Wandner	Senior Fellow	National Academy of Social Insurance

Source: GAO analysis of stakeholder panel discussion. | GAO-22-105162

Reporting of Discussion Results

We did not report on all options for transformation presented in the stakeholder panels; however, we presented those options that received the most discussion. The options for specific transformation actions we present in this report were identified by the stakeholder panelists. To ensure that we captured relevant information from all those who were present, the 2-day roundtable discussions were (1) led by moderators to keep the discussion on topic and ensure that all stakeholders were able to respond to each question; (2) recorded; and, (3) transcribed to ensure that we accurately captured stakeholders' statements. We analyzed the roundtable transcripts to identify common themes discussed by and key statements of stakeholders regarding proposed transformation options. To conduct this analysis, several analysts independently studied the roundtable transcripts, identified themes presented by the panelists, and labeled and extracted the passages addressing those themes. Their analyses then provided the input for a regrouping of these extracts into the themes presented in this report.

We did not poll stakeholder participants or take votes on approaches discussed during the roundtable. Consequently, we do not provide counts or otherwise quantify the number of stakeholders agreeing to an approach. Further, because stakeholders were generating and discussing ideas as part of a free-flowing group discussion, the number of times a concept was or was not repeated does not necessarily indicate the level of consensus on that concept. Throughout the report, we use the term “panelists” to refer to more than one stakeholder.

The inclusion in this report of individual stakeholder options should not be interpreted as GAO’s endorsement of them. The options are not listed in any specific rank or order. We did not assess how effective the options may be or the extent to which program design modifications, legal changes, and federal financial support would be needed to implement any given transformation action or combination of transformation actions. We identified transformation options based on our analysis of the stakeholders’ proposed transformation actions.

Reporting of Considerations

We identified some broad considerations that may be relevant for policymakers and others to consider when reviewing options for transforming UI programs. These considerations can be used to assess key aspects of different options for transformation, such as comprehensiveness and flexibility. We identified these considerations based on the panel discussions as well as a review of selected literature and UI transformation proposals. These considerations are not intended to cover all possible considerations, and is not intended to assign a weight to the different considerations.

To obtain views on these considerations from panelists, we provided a copy of the draft considerations to panelists by email after the session. We asked the panelists whether there were additional considerations that they felt should be included, or whether there were considerations that should not be included. To obtain additional responses, we sent a reminder email when comments were due. We ultimately obtained responses from eight participants. Overall, the responses from the panelists that we heard from was positive, although some panelists suggested either changes in wording or that some of the considerations would involve changes to the original design of the UI program.

We conducted this performance audit from April 2021 to June 2022 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: Comments from the Department of Labor

U.S. Department of Labor

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

May 5, 2022

Thomas M. Costa
Director
Education, Workforce, and Income Security
U.S. Government Accountability Office
441 G St. N.W.
Washington, DC 20548

RE: *Unemployment Insurance (UI): Transformation Needed to Address Program Design, Infrastructure, and Integrity Risks* (GAO-22-105162)

Dear Director Costa:

The U.S. Department of Labor (Department) appreciates the information, analysis, and insights that the U.S. Government Accountability Office (GAO) has shared in the above-referenced Report. It provides a thoughtful account of the struggles and challenges that faced the unemployment insurance (UI) system during the pandemic. We agree with many of the observations made in the Report and by the stakeholder panelists engaged by GAO.

First, we want to recognize the important work performed by individuals in the state UI agencies. They are responsible for delivering over $870 billion in unemployment compensation (UC) benefits to over 53 million workers during the pandemic, which played a major role in mitigating the pandemic's negative impact on the U.S. economy during very volatile times. These individuals worked long hours and had to be creative in implementing new programs quickly, and to meet the highest demand for UC in the history of the program.

We acknowledge, as called out in the Report, that states were not prepared to respond to the unprecedented level of unemployment caused by the COVID-19 pandemic. And as a result, customer service suffered, benefits were delayed, and criminals attacked the system perpetrating unacceptable fraud.

To ensure states are better prepared for future economic downturns, the Department is building on investments, such as pursuing more appropriate administrative funding for states; using funding in the American Rescue Plan Act to provide states with grants, resources, and strategies to detect and prevent fraud, promote equitable access, and improve the timely payments of UC; and actively working to help states modernize their information technology (IT) systems.

There are a few items that we particularly wish to comment on from the Report.

- **Past Information Technology funding efforts**: Under "State UI IT Environment" on pages 9-10 of the Report and under "Outdated IT infrastructure" on page 43 of the Report, GAO infers that states have received funding to invest in IT improvements. The implication left by the Report needs additional and clearer explanation. The only funding provided to states for IT modernization efforts was during limited periods of time when the Department had above-base funding that exceeded the amount needed to fund workloads, and one year (FY 2017) when Congress provided $50 million for IT modernization. Even in these years, the additional available funding was not sufficient to provide funding to all states. Instead, the Department used the limited funds to provide funding to a few consortia of states. The Report incorrectly implies that the Department had, and continues have, funding available to provide all states with funding for IT modernization. This is simply not the case.

- **Chronic underfunding for state UI administration**: The GAO Report hints at the fact that the UI system has been underfunded for years, noting the "long-standing" challenges of states with capacity and staffing limitations and not making investments in modern technology and training. Resource constraints caused by chronic underfunding pose an ongoing threat to states' ability to administer UI programs with efficiency and integrity. Insufficient Congressional appropriations for UI state administrative funding have direct impact on states' capacity, service delivery, ability to modernize IT infrastructure and systems, and ability to adequately train and staff key roles. Other than noting comments from the stakeholder panel, the Report is largely silent on specifically calling out the chronic underfunding of state UI administration. The Department notes that the President's FY 2022 budget proposal for the Department requested new funding to revise woefully outdated funding factors for state UI agencies. Regrettably, Congress did not adopt this proposal, but it is included again in the President's FY 2023 budget request.

- **Department issued guidance**: The Report states that the Department issued "untimely and unclear" guidance regarding the temporary pandemic programs. 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 the three key pandemic-related temporary UI programs within 14 days of the CARES Act enactment. Changes in guidance were driven by responses to new questions raised by states as they began implementing the new programs, especially regarding the Pandemic Unemployment Assistance (PUA) program which was unlike any previous UI program and had unique eligibility requirements. Changes in guidance were also driven by legislative enactments that added new program requirements, such as important new changes enacted on December 27, 2020, to require for identity verification, documentation to substantiate prior employment, and limitations on backdating claims.

- **Training resources**: Early in the implementation of these new programs, the Department worked with the National Association of State Workforce Agencies to develop PUA program training modules for states to use when training staff about the new program. We recognized lack of training as a risk and worked to address/mitigate it as quickly as possible. Three new PUA training modules were available to states within the first week of May of 2020 and the fourth and final module was launched on June 12, 2020.

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In this Report, GAO makes one recommendation, specifically:

> The Secretary of Labor should develop and execute a transformation plan that meets GAO's high-risk criteria for transformation; the plan should outline coordinated and sustained actions to address issues related to balancing effective service delivery with mitigating financial loss including ways to demonstrate improvements. Planned actions may include addressing audit recommendations, and determining whether legislative changes are needed, as appropriate. Planned actions may also include achieving quantifiable results in reducing improper payment rates, including those related to fraud; improving efficiency in claims processing and restoring pre-pandemic payment timeliness levels; better reaching current worker populations; and enhancing equity in benefit distribution.

The Department agrees with GAO's recommendation. Further, we are pleased to report that efforts are well underway regarding the work proposed in the recommendation that is aimed at reducing improper payments rates; enhancing equity in program access and benefit distribution; reaching worker populations reflective of the modern economy; rebuilding program performance, efficiency in claims processing, and payment timeliness; and improving responsiveness to economic downturns.

- **Efforts to Combat Fraud**: The Department established the Office of Unemployment Insurance Modernization (OUIM) within the Office of the Secretary, which is responsible for carrying out the functions authorized under Section 9032 of the American Rescue Plan Act (ARPA). Specifically, OUIM provides strategic oversight and resource management of the $2.0 billion appropriation under ARPA and any additional funding for purposes of detecting and preventing fraud, promoting equitable access, and ensuring the timely payment of benefits. OUIM works closely with the Employment and Training Administration, the Office of Unemployment Insurance, the Office of the Assistant Secretary for Administration and Management, and other DOL partners to provide strategic policy direction. Further, the Department is providing technical assistance and funding to help states address this issue, including but not limited to creating a website resource for victims of unemployment identity fraud; providing 50 states with $133.8 million in fraud prevention grants, creating and funding the national UI Integrity Center; providing states with access to prisoner data; participating in workgroups focused on combatting fraud in the UI system; and aiding states in the recovery of funds stolen by fraudsters. In addition to these efforts, the Department actively develops and updates a dynamic integrity strategic plan, which is an internal document that highlights efforts to address fraud and reduce improper payments, on a quarterly basis. Lastly, ETA collaborates on a regular and ongoing basis with OIG's Office of Investigations, including but not limited to joint meetings with ETA's regional offices and their states.

- **Priority Agency Goal**: In March 2022, the Department published the Fiscal Year 2022 – 2026 Strategic Plan. Among other things, the plan includes an ambitious priority agency goal to strengthen America's safety net for workers. By September 30, 2023, the Department will 1) increase intrastate first payments of unemployment benefits made within 21 days by at least 10 percent towards the regulatory target of 87 percent, and 2)

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reduce the estimated UI improper payment rate.

- **GAO Fraud Risk Framework**: The Department considers recommendations made by the auditing community, including but not limited to GAO and the Department's OIG, very seriously. This is precisely why, in February 2022, the Department's Office of the Chief Financial Officer (OCFO) organized training sessions so agencies across the Department can learn and better understand how to leverage the framework into their work as well as prevent and detect future risks. Moreover, OCFO and ETA are working in close coordination to assess UI program risks and develop a coordinated plan to prevent and detect fraud using GAO's fraud risk framework.

- **Equity Data Partnership**: The Department is partnering with a number of states to gather a better understanding of workers' access to UC, as well as the barriers worker communities face when accessing UC. As part of this equity data partnership, states will collect and share program data with the Department, which will then analyze the data and develop summaries and tabulations. With this information in hand, states will have an opportunity to examine their data; analyze trends and gaps, should they exist; and ultimately, use their learnings to improve equitable access to the UI programs.

- **UI Equity Grants**: On August 17, 2021, the Department published Unemployment Insurance Program Letter (UIPL) No. 23-21, which announced the availability of $260 million for activities that promote equitable access to programs. These first-of-their-kind grants in the programs may be used for activities that include, but are not limited to, eliminating administrative barriers to UC application, reducing state workload backlogs, and improving the timeliness of payments to eligible individuals. On March 1, 2022, the Department announced the first round of grant awards to four states (District of Columbia, Oregon, Pennsylvania, and Virginia). Subsequently, on March 29, the Department announced the second round of grant awards to four states (Alabama, Idaho, Missouri, and New Mexico). Most recently, the Department announced its third round of grant awards on May 2, which included four additional states (Indiana, Kentucky, Utah, and Washington). We plan to announce additional awards on a rolling basis.

- **UI Tiger Teams:** So far, the Department has engaged with 18 states to use multidisciplinary teams to identify quick actions states can take to rapidly improve equitable access, detect and prevent fraud, improve customer experience, and support timely delivery of UC. In addition, the Department is making grant opportunities available to states participating in this Tiger Team initiative to implement the recommendations developed through the engagement. See UIPL No. 02-22, issued on November 2, 2021.

- **UI Navigator Grants**: On January 31, 2022, the Department published UIPL No. 11-22, which announced the availability of up to $15 million for pilots in 5 states to help workers learn about, apply for, and, if eligible, receive UC and related services. This funding will support state agencies in delivering timely benefits to workers—especially individuals in groups that are historically underserved, marginalized, and adversely affected by persistent poverty and inequality. States may apply for up to $3 million in

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funding for a 36-month period of performance, with an anticipated start date of July 1, 2022.

- **Information Technology Modernization Pilots**. The Department has begun claimant experience pilots working with states to develop technology tools that states can leverage and adopt as they pursue the modernization of their operating systems. We plan to continue to develop a series of these pilot projects in the future with the goal of helping states prepare to offer quality customer service in future mass layoff events.

In addition to these key initiatives, as part of a comprehensive effort to modernize the UI system, the Department has worked, and continues to work, with states to ensure that they have both the resources and knowledge necessary to identify inequities and address disparities, including but not limited to accessibility, benefit levels, and claimant experiences. However, the Administration recognizes that modernizing the UI system to improve benefit access, adequacy, and eligibility will also require Congressional action. That is why the Biden-Harris Administration's FY 2022 and FY 2023 budget proposals outline a set of UI reform principles that would address the shortcomings in the UI system amplified by the pandemic and would build a more modern, resilient, system to ensure that workers have access to these crucial benefits when they need them.

Based on our current activities and strategies and considering ideas noted by stakeholder panelists engaged by GAO, the Department will develop a realistic and responsible plan to address this recommendation. Again, we greatly appreciate GAO contributing to the efforts to raise awareness of the need for strengthening investments in and meaningful reforms of the UI programs. We look forward to working with policymakers in Congress and our state partners to pursue these efforts. Thank you for the opportunity to respond to this Report.

Sincerely,

Angela Hanks

Angela Hanks
Acting Assistant Secretary

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Appendix III: Open Recommendations to the Department of Labor

As shown in table 7, GAO has made 21 recommendations to the Department of Labor (DOL) to improve the Unemployment Insurance system, including five new recommendations—one made in this report—and 16 earlier recommendations that have not been fully implemented by DOL. Of these 21 recommendations, GAO currently considers three of these recommendations to be priority recommendations.[1]

Table 7: Unemployment Insurance (UI) System Recommendations to the Department of Labor (DOL) That Are Open as of June 7, 2022

No.	Source report and recommendation number	Priority	Recommendation
1.	GAO-22-105162, #1	-	The Secretary of Labor should develop and execute a transformation plan that meets GAO's high risk criteria for transformation; the plan should outline coordinated and sustained actions to address known issues related to providing effective service and mitigating financial risk, including ways to demonstrate improvements. Planned actions may include addressing audit recommendations, and determining whether legislative changes are needed, as appropriate. Planned actions may also include achieving quantifiable results in reducing improper payment rates, including those related to fraud; improving efficiency in claims processing and restoring pre-pandemic payment timeliness levels; better reaching current worker populations; and enhancing equity in benefit distribution.
2.	GAO-22-104438, #1	-	The Secretary of Labor should study and advise the Congress and other policymakers on the costs, benefits, and risks of various options to systematically support self-employed and contingent workers during periods of involuntary unemployment outside of declared disasters, including considering options' feasibility and approach to fraud prevention.
3.	GAO-22-104438, #2	-	The Secretary of Labor should ensure the Office of Unemployment Insurance examines and publicly reports on the extent of and potential causes of racial and ethnic inequities in the receipt of Pandemic Unemployment Assistance benefits, as part of the agency's efforts to modernize UI and improve equity in the system. The report should also address whether there is a need to examine racial, ethnic, or other inequities in regular UI benefit receipt, based on the PUA findings.
4.	GAO-22-104251, #1	-	The Secretary of Labor should ensure that the Office of Unemployment Insurance review the customer service challenges that states faced during the pandemic, identify comprehensive information on customer service best practices, and provide states with this information to assist them in improving service delivery.
5.	GAO-22-104251, #2	-	The Secretary of Labor should ensure the Office of Unemployment Insurance assesses lessons learned from the pandemic to inform its future disaster response efforts and support the Congress on ways to address future emergencies.

[1]Priority open recommendations are the GAO recommendations that warrant priority attention from heads of key departments or agencies because their implementation could save large amounts of money; improve congressional and executive branch decision making on major issues; eliminate mismanagement, fraud, and abuse; or ensure that programs comply with laws and funds are legally spent, among other benefits.

No.	Source report and recommendation number	Priority	Recommendation
6.	GAO-22-105051, #4	-	The Secretary of Labor should designate a dedicated entity and document its responsibilities for managing the process of assessing fraud risks to the unemployment insurance program, consistent with leading practices as provided in our Fraud Risk Framework. This entity should have, among other things, clearly defined and documented responsibilities and authority for managing fraud risk assessments and for facilitating communication among stakeholders regarding fraud-related issues.
7.	GAO-22-105051, #5	-	The Secretary of Labor should identify inherent fraud risks facing the unemployment insurance program.
8.	GAO-22-105051, #6	-	The Secretary of Labor should assess the likelihood and impact of inherent fraud risks facing the unemployment insurance program.
9.	GAO-22-105051, #7	-	The Secretary of Labor should determine fraud risk tolerance for the unemployment insurance program.
10.	GAO-22-105051, #8	-	The Secretary of Labor should examine the suitability of existing fraud controls in the unemployment insurance program and prioritize residual fraud risks.
11.	GAO-22-105051, #9	-	The Secretary of Labor should document the fraud risk profile for the unemployment insurance program.
12.	GAO-21-387, #15	-	The Secretary of Labor should ensure the Office of Unemployment Insurance collects data from states on the amount of overpayments waived in the Pandemic Unemployment Assistance program, similar to the regular unemployment insurance program.
13.	GAO-21-265, #12	-	The Secretary of Labor should ensure the Office of Unemployment Insurance collects data from states on the amount of overpayments recovered in the Pandemic Unemployment Assistance program, similar to the regular unemployment insurance program.
14.	GAO-21-191, #8	√	The Secretary of Labor should ensure the Office of Unemployment Insurance pursues options to report the actual number of distinct individuals claiming benefits, such as by collecting these already available data from states, starting from January 2020 onward.
15.	GAO-18-633, #1	-	The Secretary of Labor should systematically collect sufficient information on state profiling systems, possibly through DOL's new UI state self-assessment process, to identify states at risk of poor profiling system performance. For instance, DOL could collect information on challenges states have experienced using and maintaining their profiling systems, planned changes to the systems, or state processes for assessing the systems' performance.
16.	GAO-18-633, #2	-	The Secretary of Labor should develop a process to use information on state risks of poor profiling system performance to provide technical assistance to states that need to improve their systems. DOL may also wish to tailor its technical assistance based on state service delivery goals and technical capacity.
17.	GAO-18-633, #3	-	The Secretary of Labor should update agency guidance to ensure that it clearly informs states about the range of allowable profiling approaches.
18.	GAO-18-486, #1	√	The Assistant Secretary of DOL's Employment and Training Administration should provide states with information about its determination that the use of state formal warning policies is no longer permissible under federal law.

No.	Source report and recommendation number	Priority	Recommendation
19.	GAO-18-486, #2	-	The Assistant Secretary of DOL's Employment and Training Administration should monitor states' efforts to discontinue the use of formal warning policies.
20.	GAO-18-486, #3	√	The Assistant Secretary of DOL's Employment and Training Administration should clarify information on work search verification requirements in its revised Benefit Accuracy Measurement procedures. The revised procedures should include an explanation of what DOL considers to be sufficient verification of claimants' work search activities.
21.	GAO-18-486, #4	-	The Assistant Secretary of DOL's Employment and Training Administration should monitor states' compliance with the clarified work search verification requirements.

Source: GAO analysis. | GAO-22-105162

Appendix IV: Stakeholder Panelists' Suggested Options for Transforming Unemployment Insurance

Stakeholders participating in our panel discussion identified specific options for transforming Unemployment Insurance (UI) programs. These options fell into three main categories: changes to program design to better target UI support, improvements to UI program infrastructure, and enhancements to program integrity.[1]

Changes to Program Design to Better Target UI Support

Multiple panelists identified a variety of potential changes to better target UI support, including: broadening eligibility and reducing administrative barriers; changing how benefits are calculated; standardizing certain UI requirements and operations across states; and increasing federal funding for UI administration and certain UI benefits.

Increase Access to UI by Broadening Eligibility and Reducing Administrative Barriers

The pre-pandemic recipiency rate was near a historic low prior to the pandemic and had been declining over time. Multiple stakeholder panelists expressed concerns that state eligibility requirements and workers' earning histories negatively affect recipiency rates and undercut the mission of UI. Therefore, panelists proposed a range of transformation options to increase the share of unemployed workers who are eligible to receive benefits, and reduce administrative barriers to access. Some of those options include:

- **Create a new program specifically to cover workers not currently covered by regular UI, such as independent contractors and self-employed workers**. Multiple stakeholder panelists suggested a variety of program models, including a permanent version of Pandemic Unemployment Assistance (PUA); a job seeker's allowance for workers not covered by regular UI, which would provide limited benefits for a short period for those actively seeking work; and a voluntary program for self-employed workers to contribute to UI and receive limited UI benefits.
- **Narrow the classification of independent contractors**. Multiple panelists also suggested that additional workers could be covered by UI without creating new programs by addressing the possible

[1]We identified options for UI transformation based on our analysis of the stakeholder panel discussions. These options for transformation are not listed in any specific rank or order and their inclusion in this report should not be interpreted as GAO endorsing any of them. Implementing any one transformation option or a combination of options might require additional efforts to address program design or legal issues. We did not assess how effective the potential transformation options may be or the extent to which legal changes and federal financial support would be needed to implement them. Options presented do not represent a consensus among panelists but instead represent options presented by at least one panelist and then, in most cases, discussion by the group as a whole.

misclassification of workers as independent contractors or revising overly broad definitions of independent contractors. At least one panelist suggested that national action on worker classification is needed to increase UI coverage.

- **Streamline UI application and employment verification processes, thus reducing administrative barriers to access**. Multiple panelists suggested strategies such as partnering with payroll processors to collect employment records and allowing unemployment agencies to access Internal Revenue Service income data for the prior year. In addition, at least one panelist suggested that when a worker is laid off, the employer could provide the worker with instructions on how to apply for UI benefits, in addition to providing information about the worker's separation to the state UI agency.

Better Target UI Benefit Amounts by Using a Flexible Wage-Replacement Rate

Multiple stakeholder panelists expressed concern that some states' UI benefit amounts are too low to ensure that a significant proportion of the necessities of life can be met on a week-to-week basis while a search for work takes place, and one panelist noted this concern particularly in regards to lower income workers. However, some panelists also expressed concerns that benefits may be too generous in some circumstances, such as the fixed benefit supplement—provided in the Federal Pandemic Unemployment Compensation (FPUC) program—regardless of prior earnings during the pandemic.

A majority of panelists generally agreed that benefit amounts that replace a given percentage of prior pay, and that could be adjusted based on economic circumstances or income levels, would better meet the goals of UI and would allow for a more targeted response during emergencies. Multiple panelists said that during economic downturns, benefit amounts could be increased to target a higher wage-replacement rate than during periods of economic growth or stability, or benefits for lower-wage workers could reflect higher wage-replacement rates. At least one panelist noted that it could be difficult for states to adjust wage-replacement rates using their current systems.

Increase Consistency of UI Support by Standardizing Requirements and Operations across States

Multiple stakeholder panelists recommended a range of transformation options to ensure that all states' programs fulfill the purpose of UI equitably, from making UI a fully federal program, to increasing federal standards, to revising triggers for the Extended Benefits (EB) program. Specifically:

- **Federalize the UI system**. Multiple panelists discussed the possibility of federalizing the UI system, stating that a new federal program could incorporate state variations, such as using triggers based on state data, but states would not have control over the program. However, this option was not uniformly supported by all panelists, with one advocating for continuing discretion at the state level.

- **Tighten federal standards for state UI programs**. Multiple panelists also recommended more stringent federal standards to ensure that all states have adequate UI programs, including minimum standards for eligibility as well as benefit amount and duration. They suggested that these federal standards would increase coverage and the adequacy of benefits in states with the lowest coverage and benefit levels, and would help address inequities in the system.
- **Revise triggers for the EB program and set parameters for other recessionary expansions to make UI expansions more automatic and consistent across states**. Multiple panelists discussed revising triggers for the EB program so they would be activated more quickly during economic downturns. At least one panelist also suggested that Congress set parameters in advance for other types of recessionary expansions, such as increases in benefit amounts. Multiple panelists stated that a more automatic and structured response to downturns would give states time to prepare to implement recessionary programs and reduce the opting-out that results when expansions are politicized.

Ensure Sufficient UI Funding by Increasing Federal Contributions toward Administration and Certain Benefits

Multiple stakeholder panelists stated that a lack of funding for UI has been a historical challenge. Multiple panelists specifically addressed insufficient federal funding for UI administration, and they also noted that states have faced challenges adequately funding their UI trust funds, which typically fund most benefits for workers. To address these funding challenges, panelists suggested the following:

- **Increase federal funding for UI administration**. Multiple panelists recommended increasing funding for UI administration, including providing more consistent funding outside of economic downturns so that states are able to appropriately hire and train staff in preparation for future downturns.[2] At least one panelist also recommended

[2]The Department of Labor's (DOL) fiscal year 2023 budget justification noted that the factors included in DOL's formula for estimating state administrative funding had not been updated in decades, and proposed updates to two of these factors. Specifically, the budget justification stated that outdated measures of claims processing rates and staff salary rates had resulted in state administrative funding estimates that were not reflective of current administrative costs. According to DOL, the use of these outdated factors consistently left states underfunded, which contributed to them not being prepared for the surge in claims from the pandemic.

increasing Department of Labor (DOL) staff to better support states in areas such as the creation of trust fund projections.

- **Provide federal funding for certain UI benefits**. Multiple panelists recommended that the federal government fully fund some unemployment benefits, though their recommendations varied in scope. The recommended components for federal funding were: (1) all UI benefits during recessions, (2) all benefits under the EB program, and (3) health benefits for workers receiving Short-Time Compensation.[3]
- **Require employee contributions to UI**. At least one panelist also suggested requiring employee contributions to UI as an alternative funding source.

Improvements to UI Systems Infrastructure

Improving and Modernizing IT Systems

We and others have reported that states have faced challenges in modernizing their UI IT systems. Multiple stakeholder panelists identified strategies to help improve UI systems and overcome challenges associated with modernizing them. For example, multiple panelists suggested that states should:

- **Increase the focus on the user experience**. Multiple panelists recommended that states design UI systems to provide a user-centered experience. Specifically, they stated that UI systems should have features that make it easier for people to obtain benefits, such as multiple access channels for users (e.g., web portals and call centers); 24-hours-a-day, 7-days-a-week user access; and the ability for users to track claim status. In addition, multiple panelists stated that users should be consulted for feedback throughout the modernization process and that modernization should include user experience testing.[4] They warned that without focusing on the user

[3]Short-Time Compensation is a program that allows employers to avoid layoffs by reducing employees' work hours. Employees whose hours are reduced are able to collect a percentage of unemployment benefits to replace a portion of their lost wages.

[4]User experience testing can occur as part of usability testing. Usability testing refers to evaluating a product or service by testing it with representative users. Typically, during a test, participants will try to complete typical tasks while observers watch, listen, and take notes. The goal is to identify any usability problems, collect qualitative and quantitative data, and determine the participant's satisfaction with the product.

experience throughout the modernization process, state UI systems potentially risk failing to meet user needs.

- **Ensure that staff have project and product management expertise**. Multiple panelists expressed that project management is a key factor in the successful completion of modernization efforts. They added that project management helps to keep vendors accountable and modernization costs within estimated projections. At least one panelist noted that states should also consider implementing product management strategies.[5] Specifically, they stated that product management enables a product manager to push back on certain system requirements that may be counterproductive to the central goals of modernization efforts. They also expressed that a rigid adherence to system requirements is a key driver of complexity in UI systems and can contribute to the failure of UI modernization efforts.
- **Use incremental or modular development and implementation practices**.[6] Multiple panelists stated that modernizing in one large effort is not ideal and carries a great degree of risk. Modernizing systems in an incremental or modular manner can be more effective. They expressed that states should work to transfer knowledge, resources, and modules (i.e., segments of modernized software) among each other. At least one panelist emphasized that the more that states can share with each other, the better they can leverage their investments.
- **Establish well-defined modernization outcome goals**. Multiple panelists expressed that states should measure the performance of modernized UI systems against well-defined goals, including determining what constitutes both successful and unsuccessful performance of UI systems. They suggested that states should first set goals—such as policy goals, administrative goals, or equity and access goals—and then determine what is needed to reach those goals. They noted that modernization without establishing and measuring against clear outcome goals may result in dollars wasted.

[5]Product management is the practice of identifying customer requirements, prioritizing those requirements, and interfacing with product owners to confirm alignment between the software components and enterprise goals.

[6]Incremental or modular development is where an investment may be broken down into discrete projects, increments, or useful segments, each of which are undertaken to develop and implement the products and capabilities that the larger investment must deliver. Dividing investments into smaller parts helps to reduce investment risk, deliver capabilities more rapidly, and permit easier adoption of newer and emerging technologies.

Enhancements to UI Program Integrity

Multiple stakeholder panelists recommended a range of options to strengthen existing internal controls for the UI program, including the following:

Strengthening Existing Internal Controls

- **Improve communication and guidance**. Multiple panelists discussed that some state workforce agencies' or claimants struggled to interpret DOL guidance on the CARES Act UI programs. For example, at least one panelist said that some beneficiaries were determined to be eligible due to administrative errors when state workforce agency staff did not understand how to determine eligibility properly. Another panelist stated that claimants could benefit from additional guidance on UI program rules, including how to apply for benefits, to help avoid improper payments.
- **Maintain employer verification requirements**. Multiple panelists noted that employer verification has historically been a valuable internal control in the regular UI program. For example, at least one panelist said that in effect, wage verification requirements for applying for regular UI was acting as a form of identity verification.

Identifying and Improving the Use of Resources to Address Fraud

In response to the increase in fraudulent and potentially fraudulent activity in UI, reported by the DOL OIG, multiple stakeholder panelists suggested that DOL and states identify and improve their use of resources to address fraud. For example:

- **Improve identity verification**. Multiple panelists stated that the UI program should consider how to improve the identity verification process and the tools used for this process. At least one panelist suggested that states be required to follow the National Institute of Standards and Technology (NIST) Identity Assurance Level (IAL) 2 and Authentication Assurance Level (ALL) 2 compliance standards for identity verification to prevent criminals from easily applying for benefits with stolen identity information.
- **Obtain additional data sources for analytics**. Multiple panelists noted that obtaining access to additional data would help DOL, the DOL OIG, and states identify fraudulent claims. For example, at least one panelist explained that in the past, DOL OIG has had to issue subpoenas to states to obtain claims payment data for analysis. Similarly, at least one panelist mentioned that the DOL OIG has also had to subpoena states for prison data, which can take months to obtain. Another panelist stated that since the pandemic started, financial institutions have started to collaborate with states to share information on potential fraud based on their own data analytics efforts, which may improve states' fraud detection abilities.

- **Obtain additional information on fraud schemes**. Multiple panelists stated that it would be helpful for state workforce agencies to obtain more information on fraud schemes, including information about what type of data is for sale on the dark web. As discussed previously, panelists noted that fraudsters are selling "how-to" guides that provide detailed instructions on how to fraudulently apply for UI benefits in a particular state and provide recommendations on how to answer questions from the state workforce agencies. At least one panelist suggested that obtaining this type of information would help inform a state of its vulnerabilities.[7]
- **Encourage states' use of UI Integrity Center's Integrity Data Hub**. Multiple panelists discussed states' varied use of fraud detection and prevention tools and stated that increased use of these tools, such as those offered by the Integrity Data Hub could enhance fraud prevention and reduce improper payments. For example, at least one panelist said that the Integrity Data Hub's tools for states to cross-reference claims have been used in multiple states and states are encouraged to share their claim types through the hub. These tools could help detect fraudsters who have fraudulently applied for benefits in multiple states.
- **Provide additional training**. Multiple panelists noted that providing training to state workforce agency staff is important in addressing fraud. They also emphasized the importance of training staff on fraud-related tools and technology. For example, when a state uses data matching to identify potential instances of fraud, it will need an adequate number of trained staff members to review the matches and conduct additional analysis to determine if the case is an instance of potential fraud, another type of improper payment, or is legitimate. In addition, at least one panelist noted that regular staff should receive more robust and regular training to better prepare for future emergencies.
- **Improve workforce planning**. Multiple panelists suggested that DOL and state workforce agencies improve workforce planning to prepare for future staffing needs. At least one panelist proposed that it would be helpful to have a plan for hiring staff to assist with reviewing claims in future emergencies.

[7]In follow-up comments, one panelist emphasized the importance of designing antifraud controls that address specific vulnerabilities to avoid unnecessarily impeding access to benefits.

- **Provide additional resources to investigate and prosecute fraud**. Multiple panelists noted that additional federal resources would help states investigate and prosecute UI fraud.[8] Specifically, at least one panelist indicated that state and local governments have experienced resource constraints, including large case backlogs and not enough investigative staff. Further, at least one panelist stated that it would be valuable for the federal government to assist state and local governments with these fraud investigations. In addition, multiple panelists noted that many international fraudsters believe that they will not be prosecuted because UI fraud has not been a priority for prosecutors. For example, one panelist emphasized that additional investigative resources to track international fraudsters and a renewed focus on prosecuting these individuals would have a deterrent effect on future UI fraud.

[8]In October 2021, we reported on additional federal efforts to investigate and prosecute fraud. See GAO-22-105051.

Appendix V: GAO Contacts and Staff Acknowledgments

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