

**STATEMENT OF GAY GILBERT
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EMPLOYMENT AND TRAINING ADMINISTRATION
U.S. DEPARTMENT OF LABOR
BEFORE THE
COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEE FOR LABOR, HEALTH AND HUMAN SERVICES,
EDUCATION, AND RELATED AGENCIES
UNITED STATES HOUSE OF REPRESENTATIVES**

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Good morning. Chairman Rehberg, Ranking Member DeLauro, and distinguished members of the Subcommittee. Thank you for this opportunity to discuss the Unemployment Insurance (UI) program and strategies for improving program integrity. Reducing improper payments in the UI program is a top priority at the Department of Labor. As such, it is receiving a high level of focus and oversight in close coordination with the Office of Management and Budget. We are aggressively working to identify new strategies and tools to support our state partners in addressing the rising UI improper payment rate.

The entire UI system, including federal and state partners responsible for administering the UI program, has a longstanding commitment to the integrity of the UI program. We employ highly sophisticated sampling and audit methods and tools to prevent, detect, and recover improper UI benefit payments. Unfortunately, the UI improper payment rate has increased during the course of the recession. For the most recent reporting period (July 2009 to June 2010)

required under the Improper Payments Information Act (IPIA), the rate was 11.2 percent, of which 10.6 percent were overpayments

The four main reasons for improper payments in the UI program are: (1) payments are made to individuals who continue to claim benefits after they have returned to work; (2) information regarding the claimant's separation from work is received after a claim is paid, often due to failure of employers or their representatives to provide timely and adequate information on the reason for an individual's separation from employment; (3) the inability to validate that the individual has met the state's work search requirements; and (4) the failure to register the claimant with the state's Employment Service pursuant to the state's law. Attachment A is a graphic display of these and other root causes for UI improper payments.

Impact of the Recession

The recession has impacted the UI improper payment rate in a number of ways. State staff and the information technology systems used to process claims have been severely stressed in managing the overwhelming workload. During times of high workload, ensuring timely payments to eligible workers is the first priority. As a result, many states transferred program integrity staff to process claims during much of the recession, and report anecdotally that they are only now staffed up sufficiently to begin moving staff back or are hiring new staff to focus on integrity activities. In addition, integrity strategies that involve technology solutions were put on hold during the recession, as a result of the

technology demands created by the many extensions and expansions of Federal unemployment programs.

Improper payments due to claimant fault, or in some cases fraud, have also increased during the recession. As a part of the federal-state integrity workgroup we have heard anecdotally from states that some claimants, when confronted with discrepancies in their claims, tell state staff they are simply desperate and willing to risk committing fraud to get money to feed their families. In addition, the severe shortage of jobs for unemployed job seekers served as a disincentive for workers to apply for jobs. Thus it is not surprising that improper payments resulting from the failure of claimants to complete their work search requirements rise during a period of slow job growth. This type of improper payment is extremely challenging to prevent, workload intensive and costly to detect for the full universe of UI claimants, which today numbers 8.8 million.

Strategies to Address Improper Payments

Despite these recent challenges, the Department has one overarching goal with respect to improper payments -- to get the improper payment rate down. The Department, working with our state partners, has been focused on the issue of improper payments for many years. A number of robust strategies are under way, new strategies are in the process of being rolled out, and we have been working collaboratively with our state partners to identify additional strategies

that focus on the prevention of overpayments focusing on the root causes which will yield the highest impact. These strategies include:

(1) preventing claimants from continuing to claim benefits after they return to work through state workforce agencies' use of the National Directory of New Hires (NDNH);

(2) reducing improper payments through early detection and prevention of eligibility problems and speeding claimants' return to work by conducting Reemployment and Eligibility Assessments (REAs);

(3) getting more timely and accurate separation information from employers or their representatives through use of the State Information Data Exchange System (SIDES), an automated separation information exchange;

(4) recovering outstanding overpayments by intercepting Federal income tax refunds using the U.S. Department of the Treasury's Treasury Offset Program (TOP); and

(5) providing tools, resources, and intensive technical assistance to states, and initiating innovative pilots, to improve prevention in order to bring the improper payment rate down.

I will elaborate on each of these strategies.

National Directory of New Hires

To address the issue of individuals continuing to claim benefits after returning to work, one of the most effective tools for detecting improper payments is the use of NDNH, a data base maintained by the Department of

Health and Human Services for child-support-enforcement purposes. The database collects quarterly wage and unemployment-compensation information on new hires from employers. Legislative authority exists that allows states to match their claimant files with the NDNH data to identify that a claimant is working and to capture the weeks of unemployment for which claims were paid when the claimant was no longer eligible for benefits. The Department will be mandating expanded use under current authority of the NDNH for both detection and prevention activities and provide new protocols to states for using the NDNH most effectively.

Reemployment and Eligibility Assessments

The REA initiative also has been an important investment in UI integrity. This initiative provides funds to states to perform in-person reemployment assessments typically conducted in a One-Stop Career Center. These assessments determine individuals' UI eligibility, provide the individual with labor market and career information, and develop a reemployment plan for each individual that includes referrals to One-Stop services. These REA activities reduce improper payments through early detection and prevention of eligibility problems and speed claimants' return to work.

During FY 2010, Congress provided \$60 million in funding to states to support REA and integrity activities, for which we thank you. To date, 39 states and the District of Columbia have REA programs. The FY 2012 budget requests \$70 million, which will fund 980,000 claimant REA visits and save state UI trust

fund accounts an estimated \$237 million. Another integrity proposal contained in the President's FY 2012 Budget is a request for \$10 million for incentive awards to states to improve their UI integrity activities related to improper payments.

State Information Data Exchange System

Another key initiative that addresses one of the top root causes of UI improper payments is the SIDES. This initiative is designed to help employers provide the information required to determine a claimant's eligibility to states more quickly by providing a secure electronic data exchange between states and employers or their third party administrators. In addition to speeding up the process, the SIDES system includes prompts and edits to improve completeness and accuracy of the information. Implementation of SIDES slowed during the recession due to other technology demands on the UI system; however, the Department is working with states and employers and their representatives to rapidly accelerate implementation.

Treasury Offset Program

I am pleased to report that as of this past month a necessary regulation and system is in place for states to implement use of the Treasury Offset Program, which enables states to recover UI overpayments by offsetting Federal income tax refunds against UI debts. States that were ready to implement this system immediately are already showing impressive recovery numbers as a

result. From February 14 through February 28 the states of New York and Wisconsin have collected nearly \$10.1 million and \$1.4 million, respectively.

Technical Assistance

We plan to provide intensive technical assistance to those states that have the highest improper payment rates in each of these root causes of improper payments. Included in that assistance is a plan to train state adjudication staff to better recognize issues that could result in a finding of ineligibility for benefits, and adopting an additional state performance measure focused on improper payments that more effectively targets prevention. We are also working with states with the highest improper payments resulting from issues associated with registration of claimants with the state's Employment Service to analyze the state-specific challenges and develop strategies to address them.

FY 2012 Legislative Proposals

We are extremely pleased that last year Congress passed two of the UI integrity proposals transmitted by the Administration in FY 2011: (1) requiring the inclusion of the specific date individuals start work in the information reported to the NDNH to facilitate identification of fraudulent UI claims; and (2) expanding the use of TOP to collect UI debts beyond cases of fraud to permit recovery of any UI debt incurred due to the individual's failure to report earnings to the UI agency. The President's FY 2012 Budget includes some UI integrity proposals submitted previously that have yet to be enacted and an

additional enhancement to the data reported to the NDNH. Specifically, the proposals include:

(1) Providing new dedicated resources for state integrity activities by permitting states to use up to 5 percent of recovered overpayments and delinquent contributions due to fraud to prevent, detect, and recover these overpayments, ensuring integrity activities are a priority;

(2) Requiring a 15 percent penalty on outstanding fraudulent benefit overpayments, similar to the penalty employers face for delinquent tax payments in many states. States may only use these funds for integrity activities or for benefit payments. At present some states that have these provisions in their state laws allow the funds to be used for other purposes, some of which are non-UI integrity related;

(3) Requiring that employer accounts be “charged” if an overpayment is the employer’s, or their representative’s, fault due to failure to respond timely or adequately to a state’s request for information; and

(4) Requiring employers to report to the NDNH individuals re-hired after a separation from employment of at least 60 days. Currently, only new hires are required to be reported. This addition to the NDNH would provide another important improper payment detection tool for the UI system.

We anticipate transmitting the legislation incorporating these proposals to Congress in the coming weeks.

Conclusion

With Congress' support, we will continue to provide states with resources to improve UI integrity, including for activities such as the implementation of SIDES and technology upgrades necessary for the states to more effectively utilize the NDNH as a prevention tool. The Department provided \$26.9 million to states in FY 2009 and \$10.7 million in FY 2010 for these activities. We continue to pursue new tools and data sources and other strategies to help states improve prevention efforts. As part of our efforts to address the root causes of improper payments in the UI program, we are committed to working with states to conduct innovative pilots to test additional actions to prevent, reduce, and recapture improper payments. For example, we are working with the Office of Management and Budget's Partnership Fund for Program Integrity Innovation to identify and fund potential pilots of new strategies. In addition, we will pursue other state pilots within our existing resources and regulations that could reduce improper payments, such as pilots utilizing cutting-edge fraud detection technology and forensic accounting. If successful, these pilots could have a significant return on investment in addressing improper payments in the UI program. Having resources available to support state integrity activities and new initiatives designed to lower the improper payment rate – including those identified in my testimony – are critical.

We look forward to working further with Congress as you consider ways to enhance Federal and state efforts to reduce improper payments in the UI program. I will be glad to respond to any questions you may have.