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Office of Inspector General—Office of Audit

REPORT TO THE EMPLOYMENT
AND TRAINING ADMINISTRATION



IMPROVED OVERSIGHT OF STATES' USE OF NEW HIRE TOOLS WOULD HELP REDUCE IMPROPER PAYMENTS

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BRIEFLY...

IMPROVED OVERSIGHT OF STATES' USE OF NEW HIRE TOOLS WOULD HELP REDUCE IMPROPER PAYMENTS

September 27, 2018

WHY OIG CONDUCTED THE AUDIT

In Fiscal Year 2017, the Department of Labor estimated the Unemployment Insurance (UI) program improperly paid more than \$1 billion to claimants who were ineligible for benefits because they had returned to work. ETA classifies these types of overpayments as "benefit year earnings (BYE) overpayments."

In 2011, ETA mandated states use the National Directory of New Hires (NDNH) to detect and prevent Benefit Year Earnings (BYE) improper payments. States also use the State Directory of New Hires (SDNH) to identify BYE overpayments.

WHAT OIG DID

We conducted this performance audit to answer the following question:

Did states effectively use the NDNH and SDNH to reduce improper payments that resulted from claimants who returned to work but continued to collect benefits?

To answer this question, we visited four states, where we conducted interviews, did statistical testing and analyzed data. We also conducted a nationwide survey. Our audit period was October 1, 2014, through December 31, 2016.

READ THE FULL REPORT

<http://www.oig.dol.gov/public/reports/oa/2018/04-18-003-03-315.pdf>

WHAT OIG FOUND

Generally, states used new hire detection tools to reduce BYE overpayments, but ETA could do more to assist states efforts. We based this determination on the following results.

ETA took corrective actions to reduce BYE overpayments. Federal regulations require agencies identify programs and activities susceptible to significant improper payments and take corrective actions. ETA did this and decreased the BYE overpayment rate by 8 percent.

Despite reductions in BYE overpayments, states underutilized new hire directories. ETA did not use state-reported data to identify states that were underutilizing new hire directories. Consequently, ETA and states missed opportunities to reduce BYE overpayments.

States did not make timely overpayment determinations for new hire investigations. We tested 544 cases in 4 states and found 3 of these 4 states were slow to make determinations for reasons that included non-responsive claimants and employers, and resource limitations. These delays resulted in higher average overpayments and contributed to the \$70.5 million in overpayments we estimated states had established between October 1, 2014, and December 31, 2016.

States did not report complete and accurate results of new hire investigations, as required. ETA said it performed desk reviews for completeness and data anomalies; however, its reviews were not sufficient to detect the problems we found. Ensuring complete and accurate data is important to assess how effective states' use of new hire cross-matching had been in reducing BYE overpayments in individual states, or the program as a whole.

WHAT OIG RECOMMENDED

We made three recommendations to the Employment and Training Administration to improve management oversight and ensure states fully utilize new hire tools.

ETA agreed with our recommendations.

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INSPECTOR GENERAL'S REPORT

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This report presents the results of the Office of Inspector General's (OIG) audit of State Workforce Agencies' (states) use of available detection tools to reduce improper payments that result from Unemployment Insurance (UI) claimants returning to work but continuing to collect benefits, otherwise known as Benefit Year Earnings (BYE) violations.

In Fiscal Year 2017, the Department of Labor's Employment and Training Administration (ETA) estimated the Unemployment Insurance (UI) program improperly paid more than \$1 billion in unemployment benefits to claimants who were ineligible for benefits because they had returned to work.

In 2011, ETA mandated states use the National Directory of New Hires (NDNH) to help states detect and prevent BYE improper payments. States also use their State Directories of New Hires (SDNH) to identify BYE overpayments.

We conducted this performance audit to answer the following question:

Did states effectively use the NDNH and SDNH to reduce improper payments that resulted from claimants who returned to work but continued to collect benefits?

To answer this question, we visited four states, where we conducted interviews, did statistical testing and analyzed data. We also conducted a nationwide survey. Our audit period was October 1, 2014, through December 31, 2016.

BYE overpayments occurred when claimants did not report or under-reported earnings while continuing to receive benefits. States typically run cross-matches each business day between their UI benefit databases and the SDNH and weekly cross-matches with the NDNH to identify individuals who collected UI benefits during weeks when an employer had reported them as employed. Employers are required to report new hires to the SDNH and states then electronically transmit the SDNH data for inclusion in the NDNH. Use of the NDNH allows states to identify claimant wages from other states and the Federal government that would not be detectable using just the SDNH.

Using the results of cross-matches, states conducted investigations, which involved sending written notifications to the claimant and requests for wage audits to the employers to determine whether the claimants received unemployment compensation during any of the weeks they were employed.

In addition to the NDNH and SDNH tools, states used other tools to reduce improper payments, as shown in Exhibit 1. We focused our audit on states use of NDNH and SDNH because ETA found these tools to be the most effective in identifying BYE issues early and thereby reducing the amount of overpayments.

RESULTS

Generally, states used new hire detection tools to reduce BYE overpayments, but ETA could do more to assist states' efforts. We based this on the following results.

ETA took corrective actions to reduce BYE overpayments. Federal regulations require agencies to identify programs and activities susceptible to significant improper payments and take corrective actions. ETA did this and decreased the BYE rate by 8 percent.

Despite reductions in BYE overpayments, states underutilized new hire directories. ETA did not use state-reported data to identify states that were underutilizing new hire directories. Consequently, ETA and states missed opportunities to reduce BYE.

States did not make timely overpayment determinations for new hire investigations. We tested 544 cases in 4 states and found 3 of these 4 states were slow to make determinations for reasons that included non-responsive claimants and employers, and nonexistent resources. These delays resulted in higher average overpayments and contributed to the \$70.5 million in overpayments we estimated states had established between October 1, 2014 and December 31, 2016.

States did not report complete and accurate results of new hire investigations, as required. While ETA stated it performed desk reviews to determine completeness and identify data anomalies in state reports, these reviews were not sufficient to detect the problems we found. Ensuring complete and accurate data is important to assess how effective states' use of new hire cross-matching had been in reducing BYE overpayments in individual states, or the program as a whole.

ETA TOOK CORRECTIVE ACTIONS TO REDUCE BYE OVERPAYMENT RATES

The Improper Payment Information Act of 2002 (IPIA), as amended,¹ requires federal agencies to review programs annually to identify programs and activities that are susceptible to significant improper payments. In its agency financial reports, DOL consistently reported UI as a program susceptible to significant improper payments and described corrective actions it had taken or planned to take to reduce UI improper payments. The corrective actions ETA implemented contributed to states reducing the BYE overpayment rate by approximately 8 percent from IPIA years² 2013 to 2017.

ETA ACTIONS TO REDUCE BYE OVERPAYMENTS

ETA implemented various strategies to assist states to reduce improper payments and specifically BYE overpayments. It mandated state Benefit Payment Control (BPC) units conduct NDNH cross-matches, initiated a BYE performance measure, and provided additional technical assistance resources through its UI Integrity Center of Excellence.

¹Congress amended the IPIA when it passed the Improper Payments Elimination and Recovery Act of 2010 and the Improper Payments Elimination and Recovery Improvement Act of 2012. Appendix C to OMB Circular A-123, Requirements for Effective Estimation and Remediation of Improper Payments, Part I, A.9, describes the required steps agencies must take to properly identify and report programs and activities they have identified as susceptible to significant improper payments.

²The IPIA year runs from July 1st of the prior year to June 30th of the reporting year. IPIA years 2013 through 2017 includes the period July 1, 2012 through June 30, 2017.

MANDATED USE OF NDNH

On June 10, 2011, ETA issued a program letter³ that stated the use of NDNH and SDNH cross-matching tools and expeditious contact with claimants to notify them of potential overpayments is an effective strategy to address BYE overpayments. In addition, the program letter mandated use of NDNH in state BPC operations and provided recommended operating procedures for cross-matching activities. California did not incorporate use of the NDNH in BPC operations until May 2018, because it claimed state resources were already insufficient to investigate the large number of SDNH cross-match hits.

PERFORMANCE MEASURE FOR BYE

On September 28, 2011, ETA issued a program letter⁴ to introduce a new core measure that established acceptable levels of performance for state reductions in BYE overpayments. For states that have high BYE overpayment rates, the measure required significant annual reductions in BYE overpayment rates. ETA published pass or fail grades for each state on its website and required states that failed the measure to include a corrective action plan in its State Quality Service Plan (SQSP). The SQSP serves as both an annual service plan and grant document.

We judgmentally selected 5 of 22 states (Massachusetts, the District of Columbia, Kentucky, Kansas, and California) that failed the measure for calendar year 2014. We verified that all five states included corrective actions in their FY 2016 SQSP. In addition, we reviewed their BYE performance during FY 2016 and FY 2017, and we found that 3 states (Massachusetts, the District of Columbia, and Kentucky) demonstrated improved performance during those 2 years, with only the states of Kansas and California showing little to no improvement.

³UIPL No. 19-11, National Effort to Reduce Improper Payments in the Unemployment Insurance Program, Section 6. Strategic Plan for Reducing the Improper Payment Rate, Subsection: Benefit Year Earnings.

⁴UIPL No. 34-11, Performance Measure for Unemployment Insurance (UI) Integrity, Section 5. Performance Standard, Subsections: Acceptable Level of Performance and Failure to Meet the Acceptable Level of Performance.

CLAIMANT AND EMPLOYER MESSAGING TOOLKIT

On March 19, 2012, ETA issued a program letter⁵ introducing the availability and implementation of a claimant and employer-messaging toolkit. The toolkit provided ready-made messaging for claimants and employers, including messages to claimants on their responsibilities to report work or earnings, and messages to employers on their responsibility to respond to state requests for earnings verifications and to report new hires to the SDNH.

UI INTEGRITY CENTER OF EXCELLENCE

ETA established the UI Integrity Center of Excellence (Center) in September 2012 when it granted \$15 million to the New York State Department of Labor to develop the Center. The Center's mission is to be a laboratory for innovation related to integrity strategies and to engage states in Center activities with the goal of improving UI integrity. Center strategies included the following: 1) program integrity training; 2) exchange of best practices; 3) a suspicious actor repository, which involves states sharing specific data elements associated with fraud; and 4) a data analytics and predictive modeling tool.

In response to a nationwide survey we conducted, 36 states made positive statements about the Center. According to the responses, the states frequently used the Center for classroom integrity training, online workshops and training, best practice information, and involvement with a suspicious actor repository. The Missouri response stated the state currently uses NDNH cross-matching because of best practices gleaned from the Center.

IPIA REQUIRED DOL TO IMPLEMENT CORRECTIVE ACTIONS TO REDUCE UI IMPROPER PAYMENTS

IPIA required federal agencies to review all programs and activities to identify all such programs and activities that are susceptible to significant improper payments. It also required agencies to report on their actions to reduce improper payments in their agency financial reports. DOL consistently identified the UI program as a program susceptible to significant improper payments and reported it as such in its annual reports. It also specifically identified BYE violations as a leading cause of UI overpayments. In addition, DOL described the actions it took to reduce improper payments. We described the actions implemented to reduce BYE overpayments in the previous section of this report. The BYE overpayment rate went down by approximately 8 percent from about the time ETA

⁵UIPL 11-12, UI Claimant and Employer Messaging Toolkit Availability and State Implementation.

implemented many of these actions, approximately IPIA year 2012, to the end of IPIA year 2017.

STATES REDUCED BYE OVERPAYMENT RATES

While remaining one of the leading causes of UI overpayments, BYE overpayment rates went down by approximately 8 percent from IPIA year 2013 to 2017. BYE also went from being the leading cause of UI overpayments at 34 percent of total UI overpayments in IPIA year 2013 to being the second leading cause at 28 percent in 2017. See Table 1 for BYE overpayments by year.

**Table 1: BYE Overpayment (OP) Rates
(Dollars in Billions)**

IPIA Year	BYE OP Rate	BYE OP Amount	BYE as a Percentage of OP
2013	3.71%	\$1.5	33.73%
2014	3.46%	\$1.2	28.01%
2015	3.43%	\$1.1	33.40%
2016	3.49%	\$1.1	31.49%
2017	3.43%	\$1.1	28.35%

DESPITE IMPROVEMENT IN THE BYE OVERPAYMENT RATE, STATES UNDERUTILIZED NEW HIRE DIRECTORIES

ETA issued program letters that required state BPC units perform NDNH cross-matches and the results of those cross-match investigations be reported separately from SDNH investigations on the quarterly ETA 227 report. ETA did not use new hire investigations data to identify states that conducted significantly fewer investigations than similarly-sized states. This resulted in missed opportunities to identify additional BYE overpayments and further reduce the BYE overpayment rate.

ETA mandated use of NDNH for BPC operations beginning no later than December 2011.⁶ In addition, ETA's 227 reporting instructions required states to report NDNH and SDNH performance quarterly.⁷

We analyzed combined NDNH and SDNH ETA 227 report data for IPIA years 2016 and 2017 and found 17 states had reported at least 25 percent fewer investigations than similarly sized states. In addition, California did not even implement use of NDNH cross-matches until May 2018, approximately 7 years after ETA had directed it to do so.

Based on the results of a study⁸ ETA conducted, it considers use of new hire cross-matching tools and expeditious contact with claimants to notify them of potential overpayments to be an effective strategy to detect claimants who have returned to work and continue to collect benefits. Our testing of new hire investigations at four states affirmed that when state officials conduct new hire investigations timely, the use of new hire cross-matching reduced improper payments.

ETA FAILED TO USE ETA 227 REPORT DATA TO IDENTIFY UNDERPERFORMING STATES

ETA officials stated that regional office staff reviewed the quarterly ETA 227 reports to ensure states had performed new hire cross-matches and to identify data anomalies. We found ETA's reviews were not adequate to identify and work with states that had underutilized new hire tools.

California officials explained they had not used NDNH cross-matches because its resources were already insufficient to investigate the large number of SDNH cross-match hits identified.

STATES UNDERUTILIZED NEW HIRE TOOLS TO TARGET POTENTIAL BYE OVERPAYMENTS

We used historical new hire investigations data from ETA 227 reports for the IPIA years 2016 and 2017 to identify states that had conducted at least 25 percent fewer investigations on average per year than states that paid out a comparable

⁶UIPL No. 19-11, National Effort to Reduce Improper Payments in the Unemployment Insurance Program.

⁷UI Reports Handbook No. 401, ETA 227 Overpayment Detection and Recovery Activities: Section C. Due Date and Transmittal; Section E.17, National Directory of New Hires; and Section E.26, State Directory of New Hires.

⁸UIPL No. 22-06, National Directory of New Hires Use for UI Program Integrity.

amount in UI benefit payments. To identify these states, we calculated the weighted average number of investigations per year for each state based on UI payment amounts and compared the weighted average number of investigations against the reported number of investigations.

Seventeen states conducted at least 25 percent fewer investigations than similarly sized states. See Exhibit 2 for a list of the 17 states that underutilized new hire tools. Had those 17 states conducted an average number of investigations, we estimated they would have performed an additional 134,977 new hire investigations per year that would have identified an average overpayment amount of \$358 per investigation. We estimate this would have resulted in approximately \$48 million in additional overpayments detected, which represents a 35 percent increase above the average annual reported overpayments of approximately \$138 million.

ETA did not establish a minimum number of investigations states must conduct, only that states are to conduct regular new hire cross-matches. However, ETA did not ensure states maximized use of new hire tools by using the reported results of new hire investigations to identify states that did not conduct a sufficient number of investigations and to identify and correct the root cause(s) for each state's underutilization.

STATES DID NOT MAKE TIMELY OVERPAYMENT DETERMINATIONS FOR NEW HIRE INVESTIGATIONS

ETA program letters stated new hire cross-matching, followed by expeditious contact with matched claimants, was the most effective method of reducing BYE overpayments. Three of the 4 states we visited did not make timely overpayment determinations. States were slow to make determinations for a variety of reasons, including nonresponsive claimants and employers, and lack of adequate resources. Because states did not make timely determinations, claimants had higher average overpayments, thereby contributing to the estimated \$70.5 million in overpayments officials detected in these four states.

States typically initiate a new hire investigation by sending a notification letter to the claimant and a wage audit request to the employer no later than the next business day following receipt of cross-match results. ETA also encouraged states to use Enhanced NDNH procedures, which involved having the states

instruct claimants to contact the agency prior to the claimant's next continued claim⁹ to resolve potential BYE violations.

We statistically sampled 544 new hire investigations in Alabama, California, Missouri, and Virginia. Our testing found states consistently sent notifications to claimants and employers the next business day following receipt of new hire cross-match results. However, the average number of days state officials needed to make an overpayment determination varied greatly and ranged from an estimated 17 days in Alabama to 87 days in California, with Virginia and Missouri averaging 64 and 83 days respectively. Investigations conducted by the states resulted in overpayments an estimated 42 percent of the time and established \$70.5 million in overpayments. See Exhibit 3 for details of our sample results and projections.

In 2011, ETA issued a program letter that mandated the use of NDNH in BPC operations. The letter identified the most effective method to address BYE overpayments was to use NDNH and SDNH cross-matching, followed by prompt contact with matched claimants to let the claimant know there is a potential overpayment. The program letter included recommended operating procedures for national and state cross-matching activities. One element missing from the recommended operating procedures was a procedure for timely follow-up with non-responsive claimants and employers.

In addition, ETA issued program letters¹⁰ during our testing period that offered financial incentives to states to implement Enhanced NDNH processes, which directs agency officials to flag the next continued claim when its NDNH cross-matches resulted in a hit, and directing the claimant to speak to a state claims representative before attempting to file his or her next continued claim.

STATE ACTIONS AND CHALLENGES THAT LED TO UNTIMELY OVERPAYMENT DETERMINATIONS

Discussions with states officials and the results of our testing identified the following causes for untimely overpayment determinations:

- States did not always use Enhanced NDNH procedures to flag the next continued claim when a NDNH cross-match identified a matched claimant.
- State officials did not timely follow up with nonresponsive employers or claimants.

⁹A continued claim is a claim for unemployment compensation for each week following the initial claim week.

¹⁰UIPL NO. 24-13, dated July 25, 2014; UIPL NO. 13-14, dated June 16, 2014; and UIPL NO. 16-15, dated June 15, 2015.

- Employers did not respond or respond timely to wage audit requests. Employer responses ranged from a high of 83 percent in Virginia to a low of 69 percent in California. Response times also ranged from a low of 26 days in Alabama to a high of 69 days in California.
- States had high workload volumes.

In addition, states noted other challenges they faced that also contributed to this untimely processing of improper payment determinations:

- The use of manual, paper-based, processes in a small number of states that increased processing times.
- The lack of subject matter experts in UI and IT, which caused delays in processing new hire cross-matches and the timely implementation of changes.
- Employers reporting incorrect or inadequate information, such as reporting the hire date instead of the actual work start date.
- The insufficient education of claimants so they understand their responsibility to report earnings during the week they earned the wages and not just in weeks where they received payment.
- Inadequate resources to process all the cross-match hits.

TIMELIER OVERPAYMENT DETERMINATIONS RESULTED IN SMALLER OVERPAYMENTS

The results of our testing demonstrates that when employers responded more timely to wage audit requests, officials were able to make timelier overpayment determinations, which led to smaller average overpayments. See Table 2 for the each state's results.

Table 2: Timelier Determinations (Det.) Reduced Overpayments (OP)

	Avg. Days for OP Det.	No. of OP Det. Less Than 50 Days	Avg. Days for Employer Response	Avg. OP Amount	No. OP Det. 50 Days or Greater	Avg. Days for Employer Response	Avg. OP Amount
AL	17	72	27	\$353	1	182	\$265
VA	64	53	18	\$406	27	40	\$577
MO	83	29	19	\$369	34	62	\$815
CA	87	24	23	\$492	23	41	\$1,024
Weighted Averages			22	\$390		51	\$789

When state officials made overpayment determinations in less than 50 days, the weighted average overpayment amount for the four states we visited was \$390. This compares to an average overpayment amount of \$789 when state officials took 50 days or longer. Our testing also supported timelier employer responses to wage audit requests led to quicker overpayment determinations. Employers averaged 22 days to respond to wage audit requests for the determinations that took less than 50 days, but averaged 51 days for the determinations that took 50 days or longer.

STATES DID NOT REPORT COMPLETE AND ACCURATE RESULTS OF NEW HIRE INVESTIGATIONS, AS REQUIRED

ETA required states to report the results of their new hire investigations on the ETA 227 report. The report provides detailed information on overpayment and recovery activities of intrastate and interstate claims under the regular UI program and two other employment compensation programs. Beginning in FY 2012, ETA issued a program letter that required¹¹ states to report NDNH and SDNH data separately on the ETA 227 report. ETA did not adequately review these reports to ensure states had reported complete and accurate new hire investigations data every quarter. Without complete or accurate data, ETA could not have accurately assessed how effective the new hire tools had been in reducing BYE overpayments in individual states or for the program as a whole.

¹¹UIPL NO. 08-12 Consolidation of ETA 9000 and ETA 227 Reports.

Our review of ETA 227 report data for the period October 1, 2014, through December 31, 2016, found a combined 22 states did not report any SDNH investigations in 115 of 477 available quarters, or report any NDNH investigations in 62 quarters. Nineteen of these 22 states responded to a survey we sent out and all 19 stated they regularly performed new hire cross-matches. If these 19 states did perform cross-matches as claimed, they should have also reported NDNH and SDNH investigations on the ETA 227 report every quarter.

STATES MISREPORTED NEW HIRE INVESTIGATIONS DATA

The four states we visited misreported new hire investigations data on the ETA 227 report during some or all of the nine quarters of our audit period. For example, Alabama reported all of its NDNH investigations as SDNH investigations during our audit period, and Virginia reported all of its SDNH investigations as NDNH investigations during the first six quarters of our audit period.

STATE OF ALABAMA

Beginning with the quarter ended March 31, 2012, ETA required states report NDNH and SDNH investigations separately to provide additional details regarding their efforts to detect and recover improper payments. Alabama did not separate its new hire investigations and reported the results of all of its 19,895 new hire investigations in the SDNH category for the period October 1, 2014, through December 31, 2016. Alabama officials had not implemented a system to identify separately NDNH and SDNH investigations. After we made them aware of this problem, they began to develop a system to separately identify and report NDNH from SDNH.

In addition, OIG found that Alabama reported approximately half the number of SDNH investigations on its ETA 227 reports for our audit period than the number of investigations its system supported (38,883 versus 19,895). See Table 3 for the variances by quarter.

Table 3: Discrepancies of Reported SDNH Investigations

FY Qtr.	Sample Universe	ETA 227	Variance
4/14	4,751	2,665	2,086
1/15	3,720	2,085	1,635
2/15	4,561	2,367	2,194
3/15	4,849	2,403	2,446
4/15	4,278	2,255	2,023
1/16	3,896	2,012	1,884
2/16	4,165	2,122	2,043
3/16	4,486	2,076	2,410
4/16	4,177	1,910	2,267
Totals	38,883	19,895	18,988

According to Alabama officials, they only reported an SDNH investigation on the ETA 227 report if the investigation resulted in an overpayment. This practice is not consistent with ETA 227 report instructions, which defines an investigation as follows:

The number of cases emanating from a state initiated overpayment detection process for which an investigation regarding a potential overpayment has been concluded.

Alabama’s definition for investigations is overly restrictive. Alabama stated it was working with a contractor to correct its problems with the new hire investigations data.

STATE OF CALIFORNIA

California overstated its SDNH investigations by 1,353 on its ETA 227 reports for the period October 1, 2014, through December 31, 2016. The ETA 227 report included 50,149 SDNH investigations and EDD’s database supported 48,796 investigations. EDD officials attribute the misclassified cases to field office staff mistakenly coding the investigations in the incorrect category.

STATE OF MISSOURI

Missouri overstated the number of NDNH investigations by 5,235 cases on its ETA 227 reports as compared to our sample universe, for the period October 1, 2014, through December 31, 2016. Missouri reported NDNH 14,090 investigations but its system only supported 8,855 investigations.

According to Missouri officials, the variances resulted from Missouri's lack of an automated NDNH cross-match system and the logics used were reliant on agency staff making an accurate association to the sources of the investigation.

STATE OF VIRGINIA

Virginia combined its SDNH investigations with its NDNH investigations during the first six quarters of our audit period October 1, 2014 through March 31, 2016. As a result, Virginia reported 32,251 NDNH investigations during those six quarters, when its own database only supports 13,891 NDNH investigations. In total, Virginia overstated its NDNH investigations and understated its SDNH investigations by 18,042. Virginia recognized its own mistake and correctly reported the investigations beginning April 1, 2016.

SURVEY RESULTS SUPPORT DATA WERE NOT REPORTED ACCURATELY

Responses to our survey support that problems with data completeness and accuracy were not isolated to the four states we visited. Thirteen of 49 states that responded to our survey admitted their NDNH and SDNH cross-match results were not broken out on the ETA 227 report.

ETA regional office quarterly reviews of the ETA 227 reports did not ensure that states reported complete and accurate results of NDNH and SDNH investigations.

ETA relied on ETA 227 report data to assess state actions to reduce improper payments. Without the complete and accurate results of new hire investigations, ETA could not have accurately assessed how effective new hire tools had been in reducing BYE overpayments in individual states or for the program as a whole.

OIG'S RECOMMENDATIONS

We recommend the Deputy Assistant Secretary for Employment and Training:

1. Develop and implement new procedures that identify states that are underutilizing NDNH and the SDNH tools and target those states for additional technical assistance.
2. Revise and redistribute recommended operating procedures for state and national new hire cross-matching that includes the use of Enhanced NDNH procedures.
3. Develop and implement improved oversight procedures to ensure the results of NDNH and SDNH investigations reported on the ETA 227 Overpayment Detection and Recovery Activities quarterly report are complete and accurate.

SUMMARY OF ETA'S RESPONSE

The Employment and Training Administration concurred with the OIG's conclusions and agreed with the recommendations. Management's response to our draft report is included in its entirety in Appendix B.

We appreciate the cooperation and courtesies ETA and state officials extended us during this audit. OIG personnel who made major contributions to this report are listed in Appendix C.



Elliot P. Lewis
Assistant Inspector General for Audit

EXHIBIT 1: FREQUENTLY USED DETECTION TOOLS

	STATES	NDNH	SDNH	QTRLY X-MATCH	HOTLINE COMPLAINT (TIPS)	INTER/INTRA STATE X-MATCH	CLAIMS AUDITS
1	ALABAMA	X	X	X		X	
2	ALASKA	X	X		X		
3	ARIZONA	X	X				X
4	ARKANSAS	X	X	X	X		
5	CALIFORNIA	X	X				
6	COLORADO	X	X				
7	CONNECTICUT	X	X				
8	DELEWARE	X	X	X			X
9*	DISTRICT OF COLUMBIA						
10	FLORIDA	X	X	X	X		
11	GEORGIA	X	X		X	X	X
12	HAWAII	X	X		X		
13	IDAHO	X	X	X			
14	ILLINOIS	X	X		X		
15	INDIANA	X	X	X		X	
16	IOWA	X	X				
17	KANSAS	X	X	X	X		X
18	KENTUCKY	X	X				
19	LOUISIANA	X	X		X	X	X
20	MAINE	X	X	X			
21	MARYLAND	X	X			X	
22	MASSACHUSETTS	X	X	X			
23	MICHIGAN	X	X				X
24	MINNESOTA	X	X	X			
25	MISSISSIPPI	X	X			X	
26	MISSOURI	X	X	X	X		X
27	MONTANA	X	X	X			
28	NEBRASKA	X	X				
29	NEVADA	X	X				X
30	NEW HAMPSHIRE	X	X		X		
31	NEW JERSEY	X	X	X	X		
32	NEW MEXICO	X	X				
33	NEW YORK	X	X		X		

U.S. Department of Labor – Office of Inspector General

	STATES	NDNH	SDNH	QTRLY X-MATCH	HOTLINE COMPLAINT (TIPS)	INTER/INTRA STATE X-MATCH	CLAIMS AUDITS
34	NORTH CAROLINA	X	X		X		
35	NORTH DAKOTA	X	X				
36	OHIO	X	X		X	X	
37	OKLAHOMA	X	X	X	X	X	
38	OREGON	X	X			X	
39	PENNSYLVANIA	X	X	X			
40**	PUERTO RICO						
41	RHODE ISLAND	X	X	X			X
42	SOUTH CAROLINA	X	X	X			
43	SOUTH DAKOTA	X	X	X		X	X
44	TENNESSEE	X	X				
45	TEXAS	X	X	X			X
46	UTAH	X	X	X			
47	VERMONT	X	X	X	X		X
48	VIRGINIA	X	X	X			
49**	VIRGIN ISLAND						
50	WASHINGTON	X	X	X			
51	WEST VIRGINIA	X	X		X		
52	WISCONSIN	X	X	X	X		X
53	WYOMING	X	X				
TOTAL STATES		49	50	24	18	10	13

Source: OIG Survey Responses

*States that did not respond

**No survey sent to Puerto Rico or the Virgin Islands due to hurricanes

EXHIBIT 2: STATES THAT UNDERUTILIZED NEW HIRE TOOLS

	State	Avg. Inv.	Weighted Avg. Inv.	Below Avg.	% Below	Estimated Overpayment Amounts *
1	OK	13	4,927	-4,914	-100%	\$1,761,437
2	MT	89	1,531	-1,442	-94%	\$517,042
3	HI	152	2,146	-1,994	-93%	\$714,919
4	RI	327	2,161	-1,834	-85%	\$657,567
5	PA	5,182	30,965	-25,783	-83%	\$9,242,564
6	OR	1,161	6,875	-5,714	-83%	\$2,048,168
7	CA	24,087	75,076	-50,989	-68%	\$18,277,986
8	IA	2,106	6,005	-3,899	-65%	\$1,397,736
9	WI	2,562	6,831	-4,270	-63%	\$1,530,626
10	NY	10,886	28,405	-17,519	-62%	\$6,279,915
11	NV	1,843	4,325	-2,482	-57%	\$889,577
12	WA	6,526	13,193	-6,667	-51%	\$2,390,062
13	WV	1,697	3,097	-1,400	-45%	\$501,743
14	MI	6,023	10,400	-4,377	-42%	\$1,569,081
15	WY	944	1,434	-490	-34%	\$175,566
16	AK	1,220	1,816	-596	-33%	\$213,806
17	PR	1,300	1,907	-607	-32%	\$217,523
Totals				134,977		\$48,385,320

* We multiplied the average overpayment amount per investigation of \$358.47 by the number of investigations below the weighted average.

EXHIBIT 3: SAMPLE PROJECTIONS

State					
Attributes	AL	CA	MO	VA	Totals
Universe Size	38,883	177,053	37,683	20,808	274,427
Sample Size	136	136	136	136	544
OP Amount Point Estimate (\$)	\$7,732,625	\$46,031,176	\$11,167,340	\$5,604,727	\$70,535,868
Number of NDNH CM	16	0	127	136	279
Number of SDNH CM	120	136	9	0	265
SDNH Point Estimate (%)	88.24	100	6.62	0	77.92
SDNH Point Estimate	34,309	177,053	2,494	0	213,856
NDNH Point Estimate (%)	11.76	0	93.38	100	22.07
NDNH Point Estimate	4,574	0	35,189	20,808	60,571
Number of OP Records	75	47	71	81	274
No. of OP Records Point Estimate (%)	55.15	34.56	52.21	59.56	41.79
No. of OP Records Point Estimate Total	21,443	61,187	19,673	12,393	114,696
Average Days to Make OP Determination	15	87	83	64	62.75
Actual OP Amounts	27,046	35,358	40,304	36,632	139,340

Source: States (Alabama, California, Missouri, and Virginia)

APPENDIX A: SCOPE, METHODOLOGY, & CRITERIA

SCOPE

To answer our objective, we judgmentally selected four states to visit: Alabama, California, Missouri, and Virginia, where we conducted interviews, statistical testing, and data analysis. In addition, we performed a nationwide survey.

The audit scope included states use of NDNH and SDNH to reduce UI improper payments caused by claimants returning to work and continuing to claim benefits during the period October 1, 2014 to December 31, 2016. We expanded this scope to July 1, 2012 to June 30, 2017, for our data analysis of IPIA improper payment data and historical ETA 227 report new hire investigations data.

METHODOLOGY

We conducted this performance audit 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.

We performed internal control procedures and interviews at the Office of Unemployment Insurance (OUI) national office and at the OUI regional offices in Atlanta, Chicago, Philadelphia, and San Francisco.

We judgmentally selected the states of Alabama, California, Missouri, and Virginia to visit based on overpayment risks identified. We performed an analysis of the data to determine whether the numbers, overall and by quarter, matched up with what states reported to ETA on the ETA 227 report. For testing purposes, we separated out the NDNH from SDNH cases, and any duplicates that we found to come up with a sample universe. We selected statistically random samples of NDNH or SDNH investigations to test in each state. We coordinated with a statistician to develop an overall sampling methodology to evaluate the selected samples. In total, we tested 544 investigations and found the data to be reliable for the purposes of our audit.

In addition, we performed a nationwide survey. Forty-nine states responded to our survey and we used the information they provided to support the testing and analytical procedures we performed.

We also performed analytical procedures on historical results from new hire investigations and IPIA improper payment data for the period (July 1, 2012 through June 30, 2017). We analyzed the data to identify trends in improper payment rates, overpayment rates, and BYE overpayment rates and any possible relationships between these rates and actions that ETA and states took, such as use of new hire tools.

RELIABILITY ASSESSMENT

We assessed the reliability of historical NDNH and SDNH investigations data that states reported quarterly using the ETA 227 report. We assessed the completeness of the data provided and tested the data for accuracy and consistency in the four states we visited. Except as reported in the body of this report, we found the data was sufficiently reliable for the purposes of our analysis. We also placed limited reliance on the Benefit Accuracy Measurement (BAM) data ETA reported for the Improper Payment Information Act. Our reliance on the BAM data was limited to the purpose of comparing improper payment rates from one period to another to demonstrate whether improper payment rates and benefit year earnings overpayment rates had changed from one year to the next. We did not perform any testing of the BAM data for this audit, but a prior OIG audit report¹² issued in September 2003 found that BAM accurately detected and reported overpayments. We found the BAM data sufficiently reliable for our limited use.

INTERNAL CONTROLS

In planning and performing our audit, we considered ETA's internal controls relevant to our audit objectives by obtaining an understanding of those controls and assessing control risks for the purpose of achieving our objectives. The objective of our audit was not to provide assurance of the internal controls; therefore, we did not express an opinion on ETA's internal controls. Our consideration of internal controls for administering the UI program would not necessarily disclose all matters that might be significant deficiencies. Because of inherent limitations on internal controls, or misstatements, noncompliance may occur and not be detected.

¹²OIG audit report entitled: *Improved Quality Control Practices Within the Benefit Accuracy Measurement System Could Save the Unemployment Trust Fund Approximately \$400 Million Annually*, Report Number 22-03-009-03-315, issued September 30, 2003.

CRITERIA

- Appendix C to OMB Circular A-123, Requirements for Effective Estimation and Remediation of Improper Payments
- The Improper Payment Information Act of 2002, as amended by Improper Payments and Elimination and Recovery Act of 2010 and the Improper Payments Elimination and Recovery Improvement Act of 2012
- UIPL NO. 8-12 Consolidation of ETA 9000 and ETA 227 Reports
- UIPL NO. 11-12 UI Claimant and Employer Messaging Toolkit Availability and State Implementation
- UIPL NO. 13-14 Unemployment Insurance Supplemental Funding Opportunity for Program Integrity and Performance and System Improvements
- UIPL NO. 16-15 Unemployment Insurance Supplemental Funding Opportunity for Program Integrity and Performance and System
- UIPL NO. 19-11 National Effort to Reduce Improper Payments in the Unemployment Insurance Program
- UIPLNO. 22-06 National Directory of New Hires Use for UI Program Integrity
- UIPL NO. 24-13 Unemployment Insurance Supplemental Funding Opportunity for Program Integrity and Performance and System Improvements
- UIPL NO. 34 -11 Performance Measure for Unemployment Insurance (UI) Integrity.
- UI Reports Handbook NO. 401, 4th Edition

APPENDIX B: AGENCY'S RESPONSE TO THE REPORT


U.S. Department of Labor

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



SEP 26 2018

MEMORANDUM FOR: ELLIOT P. LEWIS
Assistant Inspector General for Audit

FROM: MOLLY E. CONWAY 
Principal Deputy Assistant Secretary

SUBJECT: Response to the Office of Inspector General (OIG) Draft Audit Report No. 04-18-003-03-315, *Improved Oversight of States' Use of New Hire Tools Would Help Reduce Improper Payments*

Thank you for the opportunity to respond to Draft Audit Report No. 04-18-003-03-315, dated September 5, 2018. Addressing improper payments in the Unemployment Insurance (UI) program is a top priority for the U.S. Department of Labor (USDOL). As noted in the report, states are required to use the National Directory of New Hires (NDNH), pursuant to Unemployment Insurance Program Letter (UIPL) No. 19-11. USDOL's Employment and Training Administration (ETA) actively works with states to implement this requirement; however, ETA certainly can and will do more to reduce improper payments. To reinforce the fact that this is a top priority, the President's budget request in Fiscal Years (FY) 2018 and 2019 included a set of six important UI program integrity legislative proposals, including legislation that would require states to use the NDNH for detecting UI claimants who have returned to work.

ETA will work aggressively with states to identify strategies to improve program integrity and reduce improper payments resulting from state errors and ineffective use of the NDNH and the State Directory of New Hires (SDNH), including by identifying model integrity operations, sharing promising practices, and developing and providing training to address these issues to improve prevention, detection, and recovery of UI improper payments. Effective use of NDNH and SDNH data are particularly critical to enable states to better prevent and detect improper payments due to benefit year earnings (BYE), which result when individuals return to work, continue to claim UI benefits, and fail to report earnings.

The draft audit report appropriately acknowledges the results of ETA's Strategic Plan, as reported in USDOL's Agency Financial Report, recognizing that ETA's actions have contributed to states reducing the BYE overpayment rate by eight percent for the annual reporting periods from 2013 to 2017. It is also encouraging that the draft audit report indicates that our state partners see the ETA-supported UI Integrity Center of Excellence as a positive resource and that they are using information provided by the UI Integrity Center of Excellence, such as the Model Blueprint for Benefit Payment Control Operations, to improve their integrity operations. The Model Blueprint provides state best practices for effectively using new hire data, such as

identifying workflows after a “hit,” enhancing employer compliance with new hire reporting, and using the data for recovery purposes.

ETA appreciates and agrees with the USDOL OIG’s recommendations included in the draft audit report—ETA can and will improve its monitoring and oversight of state UI agencies’ use of the NDNH and SDNH. As noted in the draft audit report, states face challenges with reduced administrative funding and staffing levels in light of historically low UI workloads, which directly impacts administrative funding. Nevertheless, ETA believes there are opportunities to offer improved guidance and technical assistance to states on making the most of the NDNH as an integrity tool. In addition, ETA’s integrity strategic plan continues to evolve, and we remain committed to exploring new approaches to addressing improper payments. ETA is currently working with the UI Integrity Center of Excellence and private entities to investigate new options that may provide more immediate indicators of possible BYE-related improper payments that may lead to greater prevention of these types of overpayments.

As the draft audit report asks the narrow question about states’ effective use of the NDNH and SDNH to reduce improper payments, the response below addresses only that question. However, please be assured the reduction of improper payments is a top priority for USDOL and ETA will continue to work to develop policies and procedures to safeguard the integrity of the UI system. USDOL looks forward to working with the OIG to achieve continued improvement and reduction of improper payments.

Below is each of the OIG’s recommendations contained in the draft audit report, followed by ETA’s responses:

OIG Recommendation 1: Develop and implement new procedures that identify states that are underutilizing NDNH and the SDNH tools and target those states for additional technical assistance.

ETA Response: ETA agrees with this recommendation. ETA will work closely with the U.S. Department of Health and Human Services, Office of Child Support Enforcement (OCSE), which maintains the NDNH, and all states to conduct a review of available data on states’ NDNH and SDNH usage. The review will enable ETA to identify correlations associated with ETA 227 reporting and target specific reporting problems. From the results of this study, ETA will identify a baseline of current state usage and will implement a data driven technical assistance plan to address underutilization of the NDNH and SDNH and provide identified states with technical assistance, including use of resources available through the UI Integrity Center of Excellence. ETA will begin securing the data from OCSE and perform the data analysis immediately and expects to begin offering targeted state technical assistance in early 2019.

OIG Recommendation 2: Revise and redistribute recommended operating procedures for state and national new hire cross-matching that includes the use of Enhanced NDNH procedures.

ETA Response: ETA agrees with this recommendation. ETA plans to develop and issue revised and updated guidance on the recommended operating procedures related to state use of SDNH

and NDNH information to prevent, detect, and recover BYE improper payments, including procedures for timely follow-up with non-responsive claimants and employers. The UI Integrity Center of Excellence will identify and develop guidelines that can evolve into standard operating procedures and/or best practices adopted by states. ETA will issue the new guidance by the second quarter of FY 2019.

OIG Recommendation 3: Develop and implement improved oversight procedures to ensure the results of NDNH and SDNH investigations reported on the ETA 227 Overpayment Detection and Recovery Activities quarterly report are complete and accurate.

ETA Response: ETA agrees with this recommendation. ETA will monitor all states' ETA 227 submissions; identify states that are failing to accurately report results of NDNH and SDNH investigations; and provide custom technical assistance to those states. In addition, ETA plans to conduct multiple interactive webinars to provide instructions to state UI agencies on how to properly report information on the ETA 227 concerning NDNH and SDNH investigation activities throughout FY 2019.

ETA appreciates the opportunity to respond to the draft audit report and its recommendations. If you have questions, please contact Gay M. Gilbert, Administrator, Office of Unemployment Insurance, at (202) 693-3029.

APPENDIX C: ACKNOWLEDGEMENTS

The audit team included:

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