U.S. Department of Labor

Office of Inspector General—Office of Audit

REPORT TO THE
EMPLOYMENT AND TRAINING
ADMINISTRATION

ETA DID NOT ENSURE STATES SUFFICIENTLY IMPLEMENTED THE MIXED EARNERS UNEMPLOYMENT COMPENSATION PROGRAM

This report was prepared by Regis & Associates, PC under contract to the U.S. Department of Labor, Office of Inspector General, and by acceptance, it becomes a report of the Office of Inspector General.

Carolyn R. Hantz

U.S. Department of Labor
Assistant Inspector General for Audit

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BRIEFLY…

ETA DID NOT ENSURE STATES SUFFICIENTLY IMPLEMENTED THE MIXED EARNERS UNEMPLOYMENT COMPENSATION PROGRAM

WHY WE DID THE AUDIT

The Continued Assistance for Unemployed Workers Act of 2020 created the Mixed Earners Unemployment Compensation (MEUC) program. The program provided an additional, supplemental weekly benefit payment to individuals covered by an unemployment insurance (UI) program other than the Pandemic Unemployment Assistance program and who had significant self-employment income. The Department of Labor's Employment and Training Administration (ETA) was required to oversee the state workforce agencies' (SWA) implementation of the MEUC program.

Based on prior Office of Inspector General (OIG) pandemic audits, we were concerned about ETA's ability to deploy the $1.5 billion provided to the MEUC program. We contracted with the independent certified public accounting firm of Regis & Associates, PC (Regis) to conduct a performance audit to answer the following question:

> Did ETA ensure SWAs implemented the MEUC program for the benefit of eligible unemployed individuals, pursuant to the intent of the Continued Assistance for Unemployed Workers Act of 2020 and the American Rescue Plan Act of 2021?

For this audit, Regis performed in-depth testing on 6 SWAs, surveyed an additional 24 SWAs, reviewed policies and procedures, and interviewed ETA and SWA officials.

WHAT WE FOUND

Regis determined the six SWAs reviewed generally met the MEUC program requirements and used the related funds as intended by pandemic-related legislation. However, Regis found ETA did not ensure SWAs sufficiently implemented the MEUC program. Specifically, MEUC benefit payments were significantly delayed, there was low participation in the program, and benefits did not reach a large population.

For the six audited SWAs, some claimants waited as long as 8 months after the start of the program for their first payment. The six SWAs took between 78 to 273 days to make their first MEUC payments to claimants, and 79 percent of the surveyed SWAs took between 63 to 378 days. Regis determined that the six SWAs paid only 707 claimants under MEUC, and two SWAs served only 21 claimants each. Although the initial MEUC allotment for these SWAs totaled $79.3 million, as of September 6, 2021, only about $1.4 million had been paid to the 707 claimants. Furthermore, despite discontinuing their participation in the MEUC program in 2021, $1.3 million in MEUC funds remained available for drawdown in these SWA accounts, as of September 30, 2023.

In addition, Regis noted that the funds obligated for MEUC were appropriated by Congress without fiscal year limitation. This requires ETA to set aside pandemic funds to reimburse SWAs for eligible MEUC claims years after the conclusion of the program.

The lack of time for ETA to develop and administer a new benefit payment program for mixed earners, as well as competing priorities, resulted in the delayed payments and the underutilization of funds for the six audited SWAs. The SWAs also experienced a lack of lead time for preparation, an inadequate number of staff, IT constraints, and a lack of information on mixed earners. If these challenges are left unresolved, ETA and SWAs may again struggle to provide timely and useful assistance to this population during future emergencies.

WHAT WE RECOMMENDED

Regis made four recommendations to improve ETA's and Congress' knowledge of the mixed earners population and to monitor SWAs' levels of benefit payment activity to better meet the future needs of mixed earners. ETA agreed to take corrective actions for three recommendations. ETA stated it would be unable to address one recommendation due to current funding limitations.

READ THE FULL REPORT

For more information, go to: https://www.oig.dol.gov/public/reports/oa/2024/19-24-005-03-315.pdf.

TABLE OF CONTENTS

INSPECTOR GENERAL'S REPORT

José Javier Rodríguez
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The U.S. Department of Labor (DOL) Office of Inspector General (OIG) contracted with the independent certified public accounting firm of Regis & Associates, PC (Regis) to conduct a performance audit of the Mixed Earners Unemployment Compensation (MEUC) program. The Employment and Training Administration (ETA) was responsible for the oversight and monitoring of the state workforce agencies' (SWA or state)[1] implementation of the MEUC program and compliance with legislation. This legislation included the Continued Assistance for Unemployed Workers Act of 2020 and the American Rescue Plan Act of 2021.

The OIG monitored Regis' work to ensure it met professional standards and contractual requirements. Regis' independent audit was conducted in accordance with generally accepted government auditing standards.

Regis was responsible for the auditor's evaluation and the conclusions expressed in the report, while the OIG was responsible for reviewing Regis' report and supporting documentation.

Purpose

The OIG has previously reported[2] concerns with ETA and states' ability to deploy unemployment insurance (UI) benefits expeditiously and efficiently while ensuring integrity and adequate oversight, particularly in response to national emergencies and disasters.

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[1] This report uses "state" or "state workforce agency" to refer to the administrative body that administers the UI program within the state, district, or territory. For the 50 states, as well as the U.S. Virgin Islands, the Commonwealth of Puerto Rico, and the District of Columbia, that administrative body is a state workforce agency.
[2] See Prior Relevant Coverage in Appendix A.

The UI program is a joint federal-state program that provides temporary benefits to workers who become unemployed through no fault of their own. The Continued Assistance for Unemployed Workers Act of 2020[3] was designed to help mitigate the economic effects of the COVID-19 pandemic and provided $1.5 billion in funding to the MEUC program. The American Rescue Plan Act of 2021 extended the MEUC program through September 6, 2021.[4]

The MEUC program provided additional benefits to certain self-employed individuals, who were available for work from the week ending January 2, 2021, through the week ending September 6, 2021. Specifically, the program provided an extra $100 in benefits, per week, to self-employed individuals who had earned $5,000 or more in self-employment income in the previous tax year and were receiving certain UI benefits.[5] Recipients of Pandemic Unemployment Assistance were not eligible to receive MEUC.

We contracted with Regis to conduct a performance audit to answer the following question:

> Did ETA ensure SWAs implemented the MEUC program for the benefit of eligible unemployed individuals, pursuant to the intent of the Continued Assistance for Unemployed Workers Act of 2020 and the American Rescue Plan Act of 2021?

To answer this question, the OIG judgmentally selected six SWAs based on ten risk factors for in-depth testing and analysis for the period of January 2, 2021, to September 6, 2021. These risk factors included total federal UI funding, improper UI payments and improper UI payment rates, UI claims, and UI fraud rate. The six states were: Alabama, Alaska, Arkansas, Indiana, New Hampshire, and Ohio. Regis developed a survey to obtain key information from 31 SWAs not selected for in-depth examination. Regis also reviewed relevant policies, procedures, and related controls and interviewed ETA officials.

[3] The Continued Assistance for Unemployed Workers Act of 2020 was signed into law on December 27, 2020.
[4] The American Rescue Plan Act of 2021 was signed into law on March 11, 2021.
[5] MEUC applied to certain individuals who were eligible to receive regular unemployment compensation, including Unemployment Compensation for Federal Employees, Unemployment Compensation for Ex-Service members, Pandemic Emergency Unemployment Compensation, Extended Benefits, Short-Time Compensation, Trade Readjustment Allowances, Disaster Unemployment Assistance, and payments under the Self-Employment Assistance program.

Results

Regis found the six SWAs generally met MEUC program requirements and used the related funds as intended by the Continued Assistance for Unemployed Workers Act of 2020 and the American Rescue Plan Act of 2021. However, Regis also found ETA did not ensure SWAs sufficiently implemented the MEUC program. Specifically, approved MEUC benefits payments to claimants from the six SWAs reviewed were significantly delayed, with some claimants waiting 8 months to receive their first payment.

Additionally, Regis noted that states had low claimant participation, and the benefits did not reach a large population. Initial MEUC allotments for the six SWAs reviewed totaled $79.3 million. By the end of the MEUC program, September 6, 2021, the six SWAs had paid only around $1.4 million (2 percent), to 707 claimants. Regis also determined that of the six SWAs, two served only 21 claimants each. ETA reduced the initial allotment of $79.3 million based on the states' actual experience with the program. As of September 2023, $1.3 million remained available to the SWAs for drawdown.

Regis also noted that the funds obligated for MEUC, like most pandemic UI programs, were appropriated by Congress without fiscal year limitation. Because of this, ETA sets aside pandemic funds to reimburse SWAs for eligible MEUC claims, as ETA must reimburse states until all eligible claims from the program period have been administered, even if this requires doing so years after the conclusion of the program period in September 2021. Given the "without fiscal year limitation" congressionally-legislated parameter, ETA can potentially justify delaying the return of MEUC pandemic funds to Treasury ad infinitum. If the enacting law and subsequent agreements between DOL and the SWAs contained a termination date by which all claims must be administered or returned to the U.S. Department of the Treasury (Treasury), remaining MEUC pandemic funds could be returned to Treasury sooner and reprogrammed for the more urgent needs of the American taxpayer.

We appreciate the cooperation and courtesies ETA extended to us and Regis during this audit.

Carolyn R. Hantz
Assistant Inspector General for Audit

CONTRACTOR PERFORMANCE AUDIT REPORT

REGIS
ASSOCIATES, PC
MANAGEMENT CONSULTANTS &
CERTIFIED PUBLIC ACCOUNTANTS

Independent Auditor's Performance Audit Report on the Mixed Earners Unemployment Compensation Program

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We were engaged by the U.S. Department of Labor (DOL) Office of Inspector General (OIG), to conduct a performance audit of the Mixed Earners Unemployment Compensation (MEUC) program. The Employment and Training Administration (ETA) was responsible for the oversight and monitoring of the state workforce agencies' (SWA or state) implementation of the MEUC program and compliance with legislation. This legislation included the Continued Assistance for Unemployed Workers Act of 2020 (Continued Assistance Act) and the American Rescue Plan Act of 2021 (ARPA).

We conducted the audit to answer the following question:

> Did ETA ensure SWAs implemented the MEUC program for the benefit of eligible unemployed individuals, pursuant to the intent of the Continued Assistance for Unemployed Workers Act of 2020 and the American Rescue Plan Act of 2021?

To answer this question, we analyzed ETA and SWAs' processes and controls to determine if they were accordance with the requirements of the Continued Assistance Act and ARPA. This included information technology (IT) and information systems controls utilized to implement the MEUC program. We also examined evidence supporting states' compliance with legislation.

Of the 37 SWAs that received MEUC funding, we performed in-depth testing and analysis on 6 states: Alabama, Alaska, Arkansas, Indiana, New Hampshire, and

Ohio. For the 31 SWAs that were not selected for in-depth examination, we designed and submitted a survey questionnaire focused on the SWAs' implementation of the MEUC program. We received responses from 24 of the 31 surveyed states. See Appendix A for additional details on scope and 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 objective. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

MEUC Eligibility, Benefits, and Reporting

On December 27, 2020, the Continued Assistance Act was signed into law, which, in addition to amending certain provisions of the Coronavirus Aid, Relief, and Economic Security (CARES) Act, created the MEUC program.

Under the Continued Assistance Act, MEUC program benefits were available from the week of unemployment ending January 2, 2021, to the week of unemployment ending March 14, 2021. ARPA, which was signed into law on March 11, 2021, extended the MEUC program through the week of unemployment ending on or before September 6, 2021.

MEUC was intended to support mixed earners, which are workers who earn money through both self-employment income and traditional W-2 employment. MEUC provided qualifying individuals with a $100 supplemental weekly payment, in addition to the Federal Pandemic Unemployment Compensation program's supplemental payment of $300 and claimants' underlying unemployment insurance (UI) benefit payments. MEUC was an optional program, and SWAs had discretion as to whether to administer the program for their state. On January 5, 2021, ETA provided guidance to SWAs regarding the new MEUC program through Unemployment Insurance Program Letter No. 15-20, Change 3. Since this program was new, states initiated different strategies to quickly notify potential beneficiaries about the MEUC program and eligibility criteria.

In order to be eligible for MEUC program benefits, individuals must have earned at least $5,000 in self-employment income in the most recent taxable year ending prior to their application for regular UI. Similar to Federal Pandemic Unemployment Compensation, MEUC applied to certain individuals who were eligible to receive regular UI, Pandemic Emergency Unemployment Compensation, Permanent Federal-State Extended Benefits, Short-Time

Compensation, Trade Readjustment Allowances, Disaster Unemployment Assistance, and payments under the Self-Employment Assistance program. Individuals receiving Pandemic Unemployment Assistance[6] were not eligible to receive MEUC.

In accordance with ETA guidance, SWAs were required to report to ETA the number and amounts of claims paid, monthly and quarterly, for as long as they were paying MEUC benefits,[7] using the following forms:

- ETA 902M Mixed Earners Unemployment Compensation Activities reports identified MEUC claims, payment, and appeals activity. This report also calculated the ongoing administrative funding for this program based on the reported initial claims and appeals dispositions workloads. The ETA 902M report was due on the 30th of the month following the month to which the data related.

- ETA 227 Overpayment Detection and Recovery Activities reports provided data regarding the establishment of MEUC overpayments and recoveries. The ETA 227 report was due quarterly on the first day of the second month after the quarter of reference.

- ETA 2112 UI Financial Transaction Summary reports identified financial transactions data that included the amount of MEUC funds transferred from the federal general fund account to the state benefit payment account and the net amount of MEUC paid. The ETA 2112 report was due on the first day of the second month following the month of reference.

MEUC funding was provided to SWAs through the Automated Standard Application for Payments System, which was operated jointly by the U.S. Department of the Treasury's (Treasury) Bureau of Fiscal Service and the Federal Reserve Bank of Richmond. ETA used the Automated Standard Application for Payments System to transfer funds quickly and securely to SWAs, from which they could draw funding from pre-authorized accounts.

[6] Pandemic Unemployment Assistance refers to a program that temporarily expanded UI eligibility to people who wouldn't otherwise qualify to receive traditional unemployment benefits. This included self-employed workers, gig workers, freelancers, independent contractors, and part-time workers impacted by the coronavirus pandemic. Additional pandemic relief legislation allowed these benefits to last for up to 79 weeks.

[7] Unemployment Insurance Program Letter No. 15-20, Change 3, Attachment III, Continued Assistance for Unemployed Workers (Continued Assistance) Act of 2020 — Federal Pandemic Unemployment Compensation (FPUC) Program Reauthorization and Modification and Mixed Earners Unemployment Compensation (MEUC) Program Operating, Reporting, and Financial Instructions, issued January 5, 2021.

ETA is responsible for ensuring states have access to a reasonable amount of MEUC funding to ensure all eligible program benefits are paid. According to ETA officials, the ultimate payment of benefits under MEUC may be delayed for many years beyond the program's expiration due to benefit appeal decisions, among other reasons.

RESULTS

We found the six SWAs reviewed (Alabama, Alaska, Arkansas, Indiana, New Hampshire, and Ohio) generally met the MEUC program requirements and used the related funds as intended by the Continued Assistance Act and ARPA. The six states appropriately verified the eligibility of claimants before disbursing MEUC funds, verified the amount of the claimant's benefit payments, and submitted all required reports to ETA, in compliance with the program terms and conditions.

However, ETA did not ensure SWAs sufficiently implemented the MEUC program. Specifically, we identified approved MEUC benefit payments were significantly delayed, with some claimants waiting 8 months to receive their first MEUC payment. Furthermore, the six states we reviewed had low claimant participation, and the benefits did not reach a large population.[8]

In addition, Regis noted that the funds obligated for MEUC, like most pandemic UI programs, were appropriated by Congress "without fiscal year limitation." Because of this, ETA continues to set aside pandemic funds to reimburse SWAs for eligible MEUC claims and it could potentially justify delaying the return of MEUC pandemic funds to Treasury ad infinitum. ETA must reimburse states until all eligible claims from the program period have been administered—even if this requires ETA to do so years after the conclusion of the program period in September 2021. If the enacting law and subsequent agreements between DOL and the SWAs contained a termination date by which all claims must be administered or returned to Treasury, remaining MEUC pandemic funds could be returned to Treasury sooner and reprogrammed for the more urgent needs of the American taxpayer. However, given the "without fiscal year limitation" congressionally-legislated parameter, ETA can potentially justify delaying the return of MEUC pandemic funds to Treasury ad infinitum.

[8] The cause of the low participation for this temporary program is unknown, and Recommendations 1 and 2 serve to address the low claimant participation issue in future UI programs.

SWAs Did Not Pay Benefits Timely and MEUC Had Low Participation

MEUC benefits were not paid in a timely manner. Specifically, it took the six SWAs 78 to 273 days to make their first MEUC payments to claimants (see Exhibit 1). This lack of timeliness resulted in claimants waiting for benefits intended to provide prompt relief from the effects of the COVID-19 pandemic. For example, one state took 266 days to issue its first payment. This state reported that delays in implementing a new automated system needed for issuing MEUC payments resulted in untimely benefit payments. In this particular state, paper applications were accepted; however, actual benefit payments were delayed until the implementation of the new automated system was complete.

We identified similar results with the 24 SWAs that responded to our survey. Specifically, it took 79 percent of the SWAs 63 to 378 days to issue their first MEUC benefit payment. One surveyed SWA informed us that it had not reported any MEUC activity because it had not reprogrammed its computer to generate the reports. According to this state, it planned to correct its activity reports after the last benefits were paid.

Furthermore, although ETA established UI Performance Core Measures and metrics for first payment promptness for regular UI benefits, it did not set prompt payment goals for the MEUC program. For regular UI, ETA's goal is that all SWAs pay 87 percent of first payments within 14 to 21 days. SWAs with no waiting period should issue the first regular UI benefit payment within 14 days. SWAs with a 1-week waiting period should issue the first regular UI benefit payment within 21 days. The MEUC program did not have similar performance metrics.

We also found the MEUC program had low participation. Specifically, we determined the six SWAs paid only 707 claimants under MEUC, with two serving only 21 claimants each. As of September 6, 2021, the end of the MEUC program, only around $1.4 million had been paid to the 707 claimants (see Exhibit 1).

Initial MEUC allotments for the six states reviewed totaled $79.3 million. However, ETA indicated that it reduced the level of funding allotted to the states based on the states' actual experience with the program. As of September 2023, $1.3 million remained available for drawdown within the six SWAs' Automated Standard Application for Payments accounts—24 months after the program ended on September 6, 2021. Without the proper review and estimate of funds needed by SWAs, excess funds could be made available to SWAs that no longer need the funds (see Exhibit 2).

Ultimately, we found the six SWAs discontinued their participation in the MEUC program in June and July 2021, instead of accepting MEUC claims through the program’s end date of September 6, 2021. SWAs states cited the need for workers to return to work as their main reason for terminating the program early. Of the 24 survey respondents, 42 percent reported they ended the program early as a result of increasing vaccination rates, improving economies, and the need for workers to return to work.

Multiple Obstacles Caused Low Participation and Untimely Payments of MEUC Benefits

We found SWAs needed more time to develop and effectively administer a new benefit payment program for mixed earners. In addition, competing priorities and the simultaneous implementation of multiple CARES Act programs were obstacles in efficiently implementing the MEUC program. This resulted in delayed MEUC payments and the underutilization of MEUC funds.

MEUC was a new program created by the enactment of the Continued Assistance Act. As the enactment approached, states were navigating the potential expiration of other pandemic programs on December 26, 2020, such as Pandemic Unemployment Assistance, Federal Pandemic Unemployment Compensation, and Pandemic Emergency Unemployment Compensation. After enactment, states had to adapt to the subsequent extension and substantial modifications of these pandemic programs, for example, new documentation requirements, new identity verification requirements, and a new tiered phase-out period. This effort was intended to avoid, where possible, cutting off millions of eligible individuals who had been receiving these pandemic benefits.

MEUC was created as a supplemental program, which was offered to only a subset of individuals receiving benefits under other programs, in addition to the Federal Pandemic Unemployment Compensation supplemental payments. Many states gave priority to implementing the extension and modification of these other programs, which impacted significantly larger populations of workers.
In addition, while mixed earners were eligible for the new, temporary MEUC benefits when the law was passed, SWAs had little lead time to:

- determine how to implement the program;
- reprogram computers to issue, administer, and report MEUC benefits;
- prepare materials to explain how potential mixed earners could apply for benefits; and
- determine which applicants were eligible to receive MEUC benefits.

According to ETA, it normally takes 2 to 4 years to implement a new government benefit program. Therefore, the MEUC program implementation, which took less than one year, was much faster by comparison. Additionally, SWAs indicated they had no experience in administering a program for mixed earners. They also cited competing priorities as a result of simultaneously implementing multiple CARES Act programs that had varying requirements. Most SWAs noted they did not have adequate staff to administer the MEUC program, and some also said their antiquated systems were not able to be easily configured to the new MEUC program requirements.

Prior to the MEUC program being enacted, there was little information available on mixed earners in the United States. ETA, similarly, noted that data on mixed earners was extremely limited and based its estimate for MEUC program funding on internally developed data. Without updated and accurate information on the mixed earner population, ETA may struggle to provide timely and useful assistance to this population during future emergencies. These factors, along with the challenges that SWAs faced in quickly implementing a new benefit program with limited staff and competing priorities, made it difficult for SWAs to meet the requirements to identify and notify the mixed earner population of program eligibility.

Lack of Fiscal Year Limitations Hinders the Ability to Properly Manage MEUC Pandemic Funds

Under the enacting law and agreements between DOL and the SWAs, SWAs are entitled to the reimbursement of 100 percent[9] of the cost of eligible benefits paid under the MEUC program. Funds for this program, like most pandemic UI programs, were appropriated by Congress without fiscal year limitation.[10] Because of this, ETA continues to set aside pandemic funds to reimburse SWAs for eligible MEUC claims. ETA must reimburse states until all eligible claims from the program period have been administered—even if this requires ETA to do so years after the conclusion of the program period in September 2021.

[9] Public Law 116-136—MAR. 27, 2020, Title II Assistance for American Workers, Families and Business, Subtitle A – Unemployment Insurance, Section 2104(d)(1)(A), Payments to States, as amended by Public Law 116-260 Dec. 27, 2020, Title II Assistance to Individuals, Families, and Businesses, Subtitle A – Unemployment Insurance, Section 261 Mixed Earner Unemployment Compensation

[10] Public Law 116-136—MAR. 27, 2020, Title II Assistance for American Workers, Families and Business, Subtitle A – Unemployment Insurance, Section 2104(d)(3) Appropriation

If the enacting law and subsequent agreements between DOL and the SWAs contained a termination date by which all claims must be administered or returned to Treasury, remaining MEUC pandemic funds could be returned to Treasury sooner and reprogrammed for the more urgent needs of the American taxpayer. The pandemic assistance funds, such as MEUC, were authorized to quickly meet the urgent financial needs of American taxpayers during the pandemic crisis. However, paying pandemic-related claims, long after the pandemic has ended and the U.S. economy has recovered, is counterproductive to the original intent of the funds—even if claimants are eligible under the program period.

ETA has already begun reaching out to SWAs to identify unused pandemic funds and return them to Treasury. For example, in response to a prior OIG report,[11] on January 19, 2024, ETA issued Unemployment Insurance Program Letter No. 20-20, Change 1, which provided states with instructions for reconciling funding, under Section 2105 of the CARES Act, as amended, for the Temporary Full Federal Funding of the First Week of Compensable Regular Unemployment for States with No Waiting Week (TFFF) program. These instructions required SWAs to reconcile its TFFF accounts, submit any necessary requests for reimbursement, and identify any unused funds to be returned to Treasury by the end of Fiscal Year 2024.

During our audit, we inquired if SWAs could treat the MEUC program similarly to the TFFF program and identify any unused funds that could be returned to Treasury. ETA officials stated that, unlike with the reimbursement of TFFF benefit payments, ETA may allot or de-allot funding as necessary based on states' continuing needs, as retroactive payments continue to be made for MEUC using a separate federal account that states could not access in the same manner they can access TFFF funds through their State Unemployment Trust Funds. Accordingly, DOL has more direct control over the amounts disbursed to states for MEUC benefits because the states cannot unilaterally access MEUC funds the way they could with funds to pay TFFF claims.

According to ETA officials, retroactive payments are common in the UI program, especially in temporary federal emergency programs, such as MEUC. In addition, ETA officials stated that, in the authorizing language and agreements between DOL and the SWAs, SWAs are entitled to the reimbursement of 100 percent of the cost of benefits paid under the MEUC program without time limitations on the payment of eligible claims. Benefits are being distributed from the MEUC account to allow states to pay out any remaining backlogged MEUC claims. However, this

[11] COVID-19: ETA Needs a Plan to Reconcile and Return to the U.S. Treasury Nearly $5 Billion Unused by States for a Temporary Unemployment Insurance Program, Report No. 19-23-015-03-315 (September 28, 2023), available at: https://www.oig.dol.gov/public/reports/oa/2023/19-23-015-03-315.pdf

does not preclude ETA from identifying the minimal amount of MEUC funds required to meet benefit payment needs for any remaining eligible claims. Therefore, ETA could identify excess funds to be returned to Treasury and reprogrammed to support other critical needs.

OIG'S RECOMMENDATIONS

We recommend the Assistant Secretary for Employment and Training:

1. Perform an assessment on mixed earners, including a cost-benefit analysis of the Mixed Earners Unemployment Compensation program, to aid future decision-making regarding this segment of the work population and advise Congress based on lessons learned.

2. Collaborate with the Bureau of Labor Statistics to track and report data specific to mixed earners in the U.S. economy to allow for the provision of timely and useful assistance to the mixed earner population during future emergencies.

3. Monitor the state workforce agencies' levels of benefit payment activity and establish timeframes to reduce the remaining allotment to the sufficiently minimal amount required to meet future benefit payment needs and ensure the remaining Mixed Earners Unemployment Compensation funds are expended appropriately or returned to Treasury.

4. Perform an assessment of previous emergency unemployment insurance (UI) programs and the pandemic-related UI programs to determine an appropriate historically-based time limit for states' acceptance of emergency program benefit claims after the expiration of the UI programs' eligibility periods and consider making a legislative proposal to Congress to use the determined the time limit on future emergency programs.

Analysis of Agency's Comments

In response to a draft of this report, ETA generally or partially agreed with three of the four recommendations to improve ETA's and Congress' knowledge of the mixed earners population and to monitor SWAs' levels of benefit payment activity to better meet the future needs of mixed earners. ETA did not agree with Recommendation 2. The OIG and Regis reviewed the response; however, the agency's concerns did not result in any changes to the report. Synopses of ETA's comments and our corresponding responses are detailed as follows:

- ETA partially agreed with Recommendation 1 and stated that it would conduct a similar study 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 feasible and effective approaches to fraud prevention. This study was recommended by the Government Accountability Office, and ETA has set aside funds to pursue this study.
    - The OIG agrees with ETA that the completion of the study recommended by the Government Accountability Office will address Recommendation 1.
- ETA did not agree with Recommendation 2 and stated that, with recent reductions in funding to support research and evaluations in the UI program, it is not in a position to commit to this recommendation in the near term.
    - The OIG understands that agency funding reductions can affect the undertaking of discretionary projects. However, as Regis reported and ETA agreed, prior to the pandemic, there was little information about mixed earners in the United States. As such, working with the Bureau of Labor Statistics would provide crucial data on the mixed earner population to better inform ETA and Congress in the event of future economic crises. In developing future budget requests, ETA should consider requesting additional funds to collaborate with the Bureau of Labor Statistics on UI data collection and analysis to better inform ETA on all types of UI program participants.
- ETA agreed with Recommendation 3 and stated that it already reviews monthly state MEUC drawdown activity by reviewing account records in the U.S. Department of the Treasury's Automated Standard Application for Payments.
- ETA partially agreed with Recommendation 4 and stated, "the draft report seems to advocate for a finite limitation on the life of funds for any similar future program. This recommendation is more appropriate for Congress, whose members are the policymakers responsible for setting any such time limits."
    - The OIG agrees with ETA that Congress is responsible for setting such time limits; however, the OIG continues to be concerned that, without a finite limitation on the life of funds for any similar future programs, pandemic-related claims could continue to be paid—long after the

> pandemic has ended, and the U.S. economy has recovered. This, as Regis stated in the report, is counterproductive to the original intent of the funds to quickly meet the urgent financial needs of American taxpayers during the pandemic crisis. ETA has various annual reporting mechanisms through which it can express its concern to Congress regarding the importance of setting an appropriate finite time limitation for states' acceptance of emergency program benefit claims after the expiration of the UI programs' eligibility periods.

The OIG looks forward to working with ETA personnel to ensure the intent of the recommendations is addressed. The agency's response to the draft report is included in its entirety in Appendix B. We appreciate the cooperation and courtesies ETA extended us during this audit.

Regis + Associates, PC

Regis & Associates, PC
Washington, DC

September 11, 2024

EXHIBIT 1: MEUC BENEFITS PAID AS OF SEPTEMBER 30, 2021

Table 1: Summary of MEUC Key Dates, Claimants, and Funds Activities as of September 30, 2021

State Workforce Agency	Agreement Execution Date (A)	Termination Date (B)	First Payment Date (C)	Days Elapsed (D=C-A)	Number of Claimants	Funds Paid to Claimants as of 9/30/2021
Alabama	12/31/2020	06/19/2021	03/19/21	78	279	$591,700
Arkansas	12/31/2020	06/26/2021	03/30/21	89	21	$32,490
New Hampshire	12/31/2020	06/19/2021	04/05/21	95	67	$96,150
Indiana	12/29/2020	07/19/2021	06/07/21	160	319	$677,300
Alaska	12/30/2020	06/19/2021	06/08/21	160	21	$29,100
Ohio[12]	01/01/2021	06/26/2021	-	-	-	$0
Total					**707**	**$1,426,740**

Source: Compiled using data provided by the reviewed SWAs and SWA statements from the Automated Standard Application for Payments.

[12] Ohio did not make any claimant payments as of September 30, 2021. The Ohio SWA made the first payment on October 1, 2021, which was 273 days after it signed the MEUC agreement with DOL.

EXHIBIT 2: SUMMARY OF DEOBLIGATED MEUC AMOUNTS

Table 2: Summary of MEUC Funding Activity as of September 30, 2023

State Workforce Agency	Funds Provided by DOL	Claimant Payments	Funds Deobligated by ETA	Remaining Balance after MEUC Program Ended
Alabama	$6,800,000	$700,150	$5,877,400	$222,450
Arkansas	$4,900,000	$36,200	$4,614,350	$249,450
New Hampshire	$4,500,000	$98,600	$4,151,400	$250,000
Indiana	$20,100,000	$1,233,983	$18,635,311	$230,706
Alaska	$4,300,000	$32,000	$4,168,000	$100,000
Ohio	$38,700,000	$1,016,086	$37,444,124	$239,790
Total	**$79,300,000**	**$3,117,019**	**$74,890,585**	**$1,292,396**

Source: Data provided by SWAs, MEUC grant agreements with SWAs, and Automated Standard Application for Payments Account information for each SWA.

APPENDIX A: SCOPE AND METHODOLOGY

Scope

The audit covered how ETA ensured SWAs sufficiently implemented the MEUC program, under the Continued Assistance Act and ARPA, for the period of January 2, 2021, to September 6, 2021. There were six SWAs selected by DOL OIG for in-depth examination using a risk-based approach. The six SWAs consisted of Alabama, Alaska, Arkansas, Indiana, New Hampshire, and Ohio.

In addition to the six selected states, we sent survey questionnaires to the remaining 31 SWAs that received MEUC funding to obtain key information on how the SWAs implemented the MEUC program. Only 24 SWAs responded to the survey.

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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In planning and performing the audit, we obtained an understanding of ETA's and SWAs' internal controls that were considered significant to the audit objective. We obtained an understanding of the internal controls to help design audit procedures relevant to the audit objective and not to provide assurance on the internal controls. We, therefore, did not express an opinion on DOL's or SWAs' internal controls. Our consideration of internal controls for implementing the MEUC program would not necessarily disclose all matters that might be significant deficiencies.

Our approach for this performance audit was a risk-based methodology. This approach ensured that we deployed resources to the most vulnerable areas of waste, fraud, and abuse, while minimizing any redundant efforts.

We obtained and documented an understanding of ETA's and the reviewed SWAs' relevant policies, procedures, and related controls, including identifying risks related to:

- the nature of operations;
- structure, oversight, and governance;
- activities and external environment, including the regulatory, economic, political, and social environment;
- specific risks related to the implementation of the MEUC program;
- root causes resulting in improper benefit payments (i.e. fraudulent payments, overpayments, and the inability for the SWAs to validate initial and ongoing program eligibility requirements); and
- other challenges (i.e. program fraud, fraud vulnerabilities, IT systems, staffing, and monitoring).

We used sampling in this audit. However, we tested all the claimants for Alaska and Arkansas as these states only had 21 claimants each. Additionally, if general IT and information systems controls were determined to be significant to meet the objective of our audit, we obtained a sufficient understanding of the information systems controls necessary to assess audit risk and plan our audit procedures within the context of the audit objectives.

Selection of States

The OIG judgmentally[13] selected the six states for an in-depth review based on 10 risk factors. These risk factors included total federal UI funding, improper UI payments and improper UI payment rates, UI claims, and UI fraud rate. The states selected must have signed MEUC agreements under Section 2104(b) of the CARES Act with ETA. In selecting the states, the OIG also considered whether a state had been selected in previous OIG audits focusing on unemployment insurance programs. We conducted an in-depth examination of the six states selected by the OIG. In addition, we sent surveys to 31 states that had signed MEUC agreements with ETA under Section 2104(b) of the CARES Act—24 states responded to the surveys.

Data Reliability

We conducted tests to determine the reliability of MEUC benefit payments as well as the additional administrative costs for MEUC implementation, which was

[13] Judgmental sampling is a non-probability sampling technique in which the sample members are chosen based on the auditor's knowledge and judgment.

provided to us to review. To assess the reliability of the data, we performed procedures to test for completeness, accuracy, consistency, and validity by performing the following:

- For MEUC benefit payments, we compared claimant payment data provided (by state) via the ETA 2112 reports. The ETA 2112 report is a monthly report of information on Unemployment Trust Fund financial transactions. We further corroborated the benefit payments amounts to reports generated from payments recorded in Treasury's Automated Standard Application for Payments.

- For the additional administrative costs for MEUC implementation, we agreed the funds made available to the specific state grant agreements and the Application for Federal Assistance form SF-424. We corroborated the expenditures to detailed general ledger reports and back-up documentation as well as the state ETA 9178-P Quarterly Narrative Progress Report Form.

Sampling

To verify compliance with the Continued Assistance Act and ARPA, we applied judgmental sampling on four SWAs' claimant payments. However, we tested all the claimants for Alaska and Arkansas as these states only had 21 claimants each. We used an approach prescribed in *Government Auditing Standards* to judgmentally select a sample from benefit payments and reports submitted to ETA to test controls and compliance with rules and regulations.

To assess compliance with the CARES Act, we verified:

- the selected SWAs appropriately determined eligibility of claimants,
- the selected SWAs appropriately approved the claimants' benefit payments, and
- whether the selected SWAs submitted the required reports to ETA.

Criteria

- Continued Assistance for Unemployed Workers Act of 2020, Subchapter VI, Section 261, Mixed Earner Unemployment Compensation (December 27, 2020)
- Coronavirus Aid, Relief, and Economic Security Act, Public Law 116-136 (March 27, 2020)

- Unemployment Insurance Program Letter No. 15-20, Change 3 Continued Assistance for Unemployed Workers (Continued Assistance) Act of 2020 — Federal Pandemic Unemployment Compensation (FPUC) Program Reauthorization and Modification and Mixed Earners Unemployment Compensation (MEUC) Program Operating, Reporting, and Financial Instructions (January 5, 2021)
- Unemployment Insurance Program Letter No. 15-20, Change 4, American Rescue Plan Act of 2021 (ARPA) — Extensions to the Federal Pandemic Unemployment Compensation (FPUC) Program and Mixed Earners Unemployment Compensation (MEUC) Program
- Unemployment Insurance Program Letter No. 9-21, Continued Assistance for Unemployed Workers Act of 2020 (Continued Assistance Act) – Summary of Key Unemployment Insurance (UI) Provisions (December 30, 2020)
- Unemployment Insurance Program Letter No. 14-21, Change 1, State Responsibilities After the Temporary Unemployment Benefit Programs under the Coronavirus Aid, Relief, and Economic Security (CARES) Act as amended, End Due to State Termination of Administration or When the Programs Expire (July 12, 2021)

Prior Relevant Coverage

During the last 3 years, the OIG has issued eight reports of significant relevance to the subject of this report. Those reports are the following:

1. COVID-19: ETA Needs a Plan to Reconcile and Return to the U.S. Treasury Nearly $5 Billion Unused by States for a Temporary Unemployment Insurance Program, Report No. 19-23-015-03-315 (September 28, 2023), available at: https://www.oig.dol.gov/public/reports/oa/2023/19-23-015-03-315.pdf;

2. COVID-19: Pandemic Unemployment Assistance for Non-Traditional Claimants Weakened by Billions in Overpayments, Including Fraud, Report No. 19-23-014-03-315 (September 27, 2023), available at: https://www.oig.dol.gov/public/reports/oa/2023/19-23-014-03-315.pdf;

3. COVID-19 – Audit of State Workforce Agencies' Information Technology Systems Capability in Processing Unemployment Insurance Claims, Report No. 19-23-008-03-315 (September 19, 2023), available at: https://www.oig.dol.gov/public/reports/oa/2023/19-23-008-03-315.pdf;

4. COVID-19: ETA and States Did Not Protect Pandemic-Related UI Funds from Improper Payments Including Fraud or from Payment Delays, Report No. 19-22-006-03-315 (September 30, 2022), available at: https://www.oig.dol.gov/public/reports/oa/2022/19-22-006-03-315.pdf;

5. COVID-19: States Struggled to Implement CARES Act Unemployment Insurance Programs, Report No. 19-21-004-03-315 (May 28, 2021), available at: https://www.oig.dol.gov/public/reports/oa/2021/19-21-004-03-315.pdf;

6. COVID-19: More Can Be Done to Mitigate Risk to Unemployment Compensation under the CARES Act, Report No. 19-20-008-03-315 (August 7, 2020), available at: https://www.oig.dol.gov/public/reports/oa/2020/19-20-008-03-315.pdf;

7. Alert Memorandum: The Pandemic Unemployment Assistance Program Needs Proactive Measures to Detect and Prevent Improper Payments and Fraud, Report No. 19-20-002-03-315 (May 26, 2020), available at: https://www.oig.dol.gov/public/reports/oa/2020/19-20-002-03-315.pdf; and

8. CARES Act: Initial Areas of Concern Regarding Implementation of Unemployment Insurance Provisions, Report No. 19-20-001-03-15 (April 21, 2020), available at: https://www.oig.dol.gov/public/reports/oa/2020/19-20-001-03-315.pdf.

APPENDIX B: AGENCY'S RESPONSE TO THE REPORT

U.S. Department of Labor

Assistant Secretary for
Employment and Training
Washington, D.C. 20210

August 19, 2024

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

FROM: JOSÉ JAVIER RODRÍGUEZ

SUBJECT: Response to Draft Report – *ETA Did Not Ensure States Sufficiently Implemented the Mixed Earners Unemployment Compensation Program*, Report No. 19-24-XXX-03-315

The U.S. Department of Labor's (Department) Employment and Training Administration (ETA) appreciates the opportunity to respond to the above-referenced draft report from the Office of the Inspector General (OIG). Below are ETA's observations on the draft report, followed by ETA's responses to the draft report's recommendations.

The Department takes its oversight of federally funded programs very seriously. The draft report highlights multiple issues that hindered the success of the Mixed Earners Unemployment Compensation (MEUC) program. First, the draft report correctly identifies lead time as a major issue. Specifically, it "takes [two] to [four] years to implement a new government benefit program." Instead of having sufficient time to prepare, MEUC program implementation and, in fact, the entire eligibility period for the program, occurred within less than one year. The draft report identifies the target population of the MEUC program as another issue. Prior to the pandemic, there was little information about mixed earners in the United States and ETA and state workforce agencies (SWA) did not have prior experience in administering a mixed earners program.

Further, it is also relevant to note that years of low funding for state administration of the regular unemployment insurance (UI) program left the UI system ill-prepared to implement new programs and to adequately respond to the increased demands facing the UI system during the midst of a national disaster with mass layoffs, like the COVID-19 pandemic. It is important that Congress understand these experiences and ensure adequate funding for state UI administration so that the UI system is better positioned to respond to future mass layoff events. As noted in the draft report, "ETA and SWAs may again struggle to provide timely and useful assistance" during future economic crises.

Responses to the Recommendations

Please find below each of the recommendations contained in the draft report, followed by ETA's proposed corrective actions to address the recommendations.

Recommendation 1: Perform an assessment on mixed earners, including a cost-benefit analysis of the Mixed Earners Unemployment Compensation program, to aid future decision-making regarding this segment of the work population and advise Congress based on lessons learned.

Response: ETA partially agrees with this recommendation. ETA questions the value of using its limited research resources to assess a temporary program that has expired and had a low level of usage. In light of this concern, ETA offers an alternative approach to address the intent of this recommendation.

Specifically, ETA proposes that the intent of this recommendation can be satisfied by pursuing a very similar study recommended by the Government Accountability Office (GAO). Specifically, in June 2022, GAO recommended that "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 feasibility and effective approaches to fraud prevention." ETA believes that this evaluation would be a more effective way to address the value of a potential support for covered workers with significant supplemental self-employment and/or contingent employment earnings. ETA has set aside funds to pursue a study in this area. ETA will explore leveraging the currently planned study of self-employed and contingent workers to address the intent of this recommendation. The Administrator for the Office of Unemployment Insurance is responsible for this recommendation.

Recommendation 2: Collaborate with the Bureau of Labor Statistics to track and report data specific to mixed earners in the U.S. economy.

Response: ETA disagrees with this recommendation, as a lack of funding impacts ETA's ability to address this recommendation. ETA has previously explored the possibility of UI-related analyses on other areas with the Bureau of Labor Statistics (BLS) but given resource constraints BLS would need ETA to provide its own funding for these activities. With the recent reduction in funding through enacted appropriations in funding used to support research and evaluations in the UI program, ETA is not positioned to commit to this recommendation in the near term.

Recommendation 3: Monitor the state workforce agencies' levels of benefit payment activity and establish timeframes to reduce the remaining allotment to the sufficiently minimal amount required to meet future benefit payment needs and ensure the remaining Mixed Earners Unemployment Compensation funds are expended appropriately or returned to Treasury.

Response: ETA agrees with this recommendation. In fact, ETA is already performing this activity. On a monthly basis, ETA reviews state MEUC drawdown activity by reviewing account records in the U.S. Treasury Department's Automated Standard Application for Payments (ASAP) system. An assessment of state funding requirements is completed based on continuing activity and additional insight through state coordination, as appropriate. Based on this assessment, a revised allotment is authorized via email to the U.S. Treasury Department's Unemployment Trust Fund team which either increases or decreases the state allotments as

2

necessary. The Administrator for the Office of Unemployment Insurance is responsible for implementation of this recommendation. At this time, ETA anticipates a continuing need to conduct the action set out in this recommendation for many years to come.

Recommendation 4: Perform an assessment of previous emergency unemployment insurance (UI) programs and the pandemic-related UI programs to determine a statute of limitation for states' acceptance of emergency program benefit claims after the expiration of the UI programs eligibility periods and advise Congress to use the determined statute of limitation on future emergency programs.

Response: ETA partially agrees with this recommendation and offers an alternative approach to address the intent of this recommendation. Based on the text of the draft report, and ETA's understanding of the intent and purpose of this recommendation, the use of the phrase "statute of limitation" appears out of context. The draft report seems to advocate for a finite limitation on the life of funds for any similar future program. This recommendation is more appropriate for Congress, whose members are the policymakers responsible for setting any such time limits. As an alternative, ETA could address the intent of this recommendation by developing a lessons learned from the pandemic experience to have available to share for future legislative technical assistance to Congress. The Administrator for the Office of Unemployment Insurance would be responsible for the alternative approach to this recommendation.

3

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