

# Unemployment Insurance Fraud: Background and Recent Data

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This Insight provides background and recent data on fraud within the federal-state [Unemployment Insurance \(UI\) system](#). Program integrity issues have long been of concern for the permanent-law UI programs. The improper payment estimate for the UI system has been [above 10% for 15 of the past 19 years](#). The Office of Management and Budget continues to designate UI as a “high-priority” program (i.e., a program with estimated improper payments of more than \$100 million a year) within the U.S. Department of Labor (DOL). The temporary, COVID-19 UI benefits created in response to the pandemic exacerbated program integrity concerns related to improper payments and fraud. For an overview of this issue, see CRS In Focus IF12243, *Unemployment Insurance Program Integrity: Recent Developments*.

## Defining UI Fraud

An *improper payment* is any payment that should not have been made or was made in an incorrect amount under statutory, administrative, or other legally applicable requirements, including any payment to an ineligible recipient. [Improper payments](#) include both overpayments and underpayments. UI *overpayments* are identified when a state determines that the individual received a payment, or a portion of a payment, to which the individual is not entitled.

*Fraud* is a subset of overpayments and is defined under each state’s [Unemployment Compensation \(UC\) laws](#). Thus, what constitutes fraud varies from state to state. In general, fraud involves a knowing and willful act or concealment of material facts to obtain or increase benefits. Fraud determinations often include identifying a pattern of action or the claimant’s certification of erroneous information under the penalty of perjury. Regular, state UC benefits do not employ one federal definition of fraud, yet several of the COVID-19 UI benefits did include statutory language related to fraud.

Two types of UI fraud have been prevalent with regard to the COVID-19 UI benefits, as explained in DOL [program guidance](#) to states: (1) *eligibility fraud*, which occurs when UI benefits are received by unqualified individuals based on intentionally false information, and (2) *identity fraud*, which occurs when someone utilizes identifying information of another person to receive UI benefits illegally.

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## UI Fraud Data

Under 20 C.F.R §650.1(b), state UC laws must provide an opportunity for a fair hearing for all individuals whose claims for unemployment benefits are denied. As a result, states may not identify fraud immediately. Additional investigation by relevant law enforcement agencies may also be necessary to establish fraud. Thus, the full scope of UI fraud may not be known for some time.

With those caveats in mind, a [December 2022 GAO report](#) identifies two types of available data on UI fraud: (1) *measures*, which are “counts of detected activities” and (2) *estimates*, which are “projections or inferences based on measures, assumptions, or analytical techniques.” In this report, GAO [states](#):

Federal and state entities have produced several fraud and fraud-related measures and estimates of UI fraud during the pandemic. These measures and estimates reflect a variety of characteristics and potential indicators of fraud. While each type of measure and estimate has strengths and limitations, as described below, none completely and reliably indicates the extent of fraud in UI programs during the pandemic.

### Recent UI Fraud Measures

Recent UI fraud measures include state UI agency reports to DOL of fraudulent payments from all UI programs (at least [\\$4.3 billion](#) from April 2020-June 2022, according to GAO). This measure is not a final total, and will increase as states identify fraudulent payments. DOL-Office of Inspector General (OIG) has also reported the number of UI benefit cases flagged as being potentially fraudulent (cited by GAO as being [\\$45.6 billion](#) from March 2020-April 2022). This number includes cases that will ultimately be determined not to involve fraud, but is also likely to increase with additional investigations. DOL-OIG has [highlighted](#) the unprecedented nature of its current investigative workload with regard to UI fraud:

Prior to the pandemic, the OIG opened approximately 100 UI investigative matters annually. Since April 1, 2020, the OIG has opened over 190,000 investigative matters concerning UI fraud. That is an increase of more than 1,000 times in the volume of UI work that we are facing. UI investigations now account for approximately 96 percent of the OIG investigative case inventory, compared to approximately 11 percent prior to the pandemic.

### Recent UI Fraud Estimates

DOL produces estimates of UI fraud, which are currently limited to regular, state UC programs (roughly [\\$8.5 billion](#) for the July 2020-June 2021 period, as cited by GAO). DOL-OIG is another [source](#) of UI fraud [estimates](#), but has not yet produced estimates for all COVID-19 UI programs in all states. Auditors in many states have also released state-specific estimates of UI fraud. These estimates vary significantly in scope and methodology—and thus, cannot be aggregated to produce a national estimate.

Recently, GAO estimated the lower bound of UI fraud at [\\$60 billion](#), acknowledging that the actual amount of UI fraud during the COVID-19 pandemic may be substantially higher. This estimate is expected to increase over time with additional investigation and data reporting. UI overpayments comprise a larger category than fraud and include overpayments not caused by fraud. Thus, DOL-OIG’s most recent estimate of UI improper payments made in response to the COVID-19 pandemic—at least [\\$191 billion](#) (out of \$888 billion in total UI benefit payments, estimated using an improper payment rate of 21.52% for fiscal year 2022)—provides additional context on the scope of UI program integrity concerns.

## Congressional Interest in UI Fraud

In 2023, Congress has held several hearings that addressed UI fraud:

- on February 1, 2023, the House Committee on Oversight and Accountability held a [hearing](#) “Rampant Waste of Taxpayer Dollars in COVID Relief Programs,” and
- on February 8, 2023, House Committee on Ways and Means held a [hearing](#) on “The Greatest Theft of Taxpayer Dollars: Unchecked Unemployment Fraud.”

Legislation has been introduced in recent Congresses related UI program integrity and fraud—for example, in the 117<sup>th</sup> Congress: S. 490/H.R. 1458, S. 1699 /H.R. 3268, S. 2742, S. 2898, S. 4507 /H.R. 8000, H.R. 723, H.R. 4190, H.R. 6224, and H.R. 8661.

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