

STATE OF WISCONSIN



Department of Workforce Development



# WISCONSIN UNEMPLOYMENT INSURANCE

✓ Integrity

✓ Customer Service

✓ Accountability

2022

## FRAUD REPORT TO THE UNEMPLOYMENT INSURANCE ADVISORY COUNCIL

This report is presented to the Wisconsin Unemployment Insurance Advisory Council pursuant to Wis. Stat. § 108.14(19). The report contains information relating to the detection and prosecution of unemployment insurance fraud in the preceding year.

March 15, 2022

Dear Members of the Unemployment Insurance Advisory Council:

On behalf of the Department of Workforce Development (DWD), Unemployment Insurance Division Administrator Jim Chiolino and I are pleased to present the 2022 Unemployment Insurance (UI) Fraud Report, outlining the division's efforts to combat waste, fraud, and abuse in 2021.

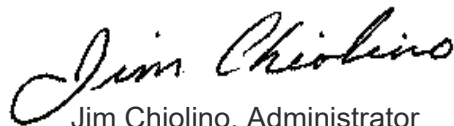
In 2021, Wisconsin paid out nearly \$2.5 billion in UI benefits while holding the fraud rate to 1.1%. This remains well below the highest fraud rate in recent history of 3.4%, which occurred in 2013. This underscores the commitment of Governor Tony Evers and DWD leadership to combat fraud in the UI system. The COVID-19 pandemic sparked numerous fraud schemes targeting UI programs and claimants. Utilizing the many safeguards that DWD has implemented, the department was able to protect the integrity of the trust fund while also communicating alerts and helpful tips to avoid fraud to UI claimants via social media, the DWD website, and the news media.

Maintaining the integrity of Wisconsin's UI program is critical to ensure benefits are paid only to those who qualify under the law and to assess employers the proper tax rate. Our focus in 2021 was paying the many individuals in need the benefits they were due.

Sincerely,



Amy Pechacek, Secretary-designee  
Department of Workforce Development



Jim Chiolino, Administrator  
Unemployment Insurance Division

## DETECTION TOOLS

### Dedicated UI Workers

Staff vigilance is one of the division's best tools for detection. The Integrity and Quality Section within the Benefit Operations Bureau provides training to staff on methods for detecting and reporting fraud. The Integrity and Quality Section consists of experienced investigators who investigate the most complex and organized efforts to defraud the system.

### Wage Verification

The division sends wage verification notices to employers when claimants report wages in a week as well as when claimants, who had been reporting wages weekly, report no wages in a week. This allows employers the opportunity to timely report wages and other eligibility issues.

### Cross-Matches

The division uses numerous cross-matches that assist in detecting UI fraud:

**Quarterly Wage Cross-Match** – This cross-match compares benefit payment records with quarterly wage records submitted by employers covered under Wisconsin's UI program. This helps to verify wages are properly reported on unemployment claims.

**Interstate Wage Record Cross-Match** – This cross-match compares benefit payment records with quarterly wage records submitted by employers from other states. This helps to verify wages are properly reported on unemployment claims.

**Inmate Cross-Match** – Claimants may be ineligible for UI benefits if incarcerated. This tool consists of two cross-match programs: one that compares benefit payment records to incarceration records for all of Wisconsin's county jails and prisons, and a second that compares benefit payment records to incarceration records for facilities nationwide.

**Wisconsin and National New Hire Cross-Match** – Employers must report basic information about employees who are newly hired, rehired, or return to work after a separation from employment. Division staff cross-match UI payment records with new hire information. Wisconsin cross-matches quarterly federal wage data from the National Directory of New Hires reports for claimants who are former federal government employees.

**Vital Statistics (Death Records) Cross-Match** – The Wisconsin Department of Health Services provides a record of deaths in Wisconsin that is cross-matched with UI data to determine whether UI claims continue to be filed after a claimant is deceased.

**SSDI Cross-match** – This cross-match compares individuals currently listed as receiving Social Security Disability Insurance with claimants filing initial and weekly unemployment claims.

### Other Detection Approaches

**Additional detection approaches used to preserve and protect the integrity of the UI Trust Fund include:**

- ▶ Audits of employers - resulting in additional employer contributions totaling \$675,894 in 2021;
- ▶ Employer complaints and tips from the public concerning suspected fraudulent claims;
- ▶ Using 1099 information from the Internal Revenue Service to investigate employers who may be misclassifying employees as independent contractors;

- ◆ Contacts from local, state, and federal law enforcement officers regarding suspicious activities;
- ◆ U.S. Bank's sophisticated fraud monitoring tools, which allow the department to monitor, predict, and respond quickly to suspected fraudulent activity; and
- ◆ Meetings with several other state agencies on a quarterly basis to discuss fraud trends and cases of mutual interest. The agencies share fraud tips to ensure fraud occurring across agencies is thoroughly investigated and stopped.

## WORKER CLASSIFICATION

Worker misclassification contributes to waste and fraud in the UI program through the loss of UI tax revenue from employers who misclassify workers, and the creation of an unfair business climate that places businesses that follow the law at a competitive disadvantage. It also denies workers, who are out of work through no fault of their own, access to the UI benefits they may have been eligible for if they were properly classified.

The historic number of claims related to the COVID-19 pandemic required the division to prioritize claims processing over audit and worker classification investigations. Nevertheless, Wisconsin UI auditors conducted 1,709 audits and identified 3,365 misclassified workers. Due to the division's efforts to detect worker misclassification, \$675,894 was generated in UI taxes and \$103,741 in interest. Worksite investigations are conducted by experienced division investigators, many of whom have law enforcement backgrounds in white collar and economic crime investigations. The division conducted 287 worker classification field investigations in 2021.

## FRAUD OVERPAYMENTS

The division remains committed to ensuring the integrity of the UI program. Fraud overpayments increased in 2021 as UI concluded many investigations that determined fraud occurred in the previous year that saw record amounts of benefits paid and claims filed. It is important to remember that fraud overpayment figures reflect the amount of fraud detected in the stated calendar year. Our fraud rate in 2021 was 1.1 percent. For comparison, in the last nine years, the highest rate of detected fraud in a calendar year occurred in 2014 at 2.8 percent.

	2021 Amount	2020 Amount	Dollar Change
Total UI Payments	\$2,481,203,431	\$4,839,149,601	(\$2,357,946,170)
<b>Fraud Overpayment<sup>1</sup> Combined State and Federal</b>	\$27,171,973	\$4,534,899	\$22,637,074
As Percent of Total Payments	1.1%	0.1%	

	2021 Number of Cases	2020 Number of Cases	Case Change
<b>Fraud Cases</b>	11,474	3,561	7,913

<sup>1</sup>Overpayment figures reflect the amounts detected in the stated calendar year. A portion of those overpayments were disbursed in prior calendar years.

Another measure of fraud is the United States Department of Labor's Improper Payment Rate – Overpayment with Fraud. In that measure Wisconsin had a 3.65 percent fraud rate from June 30, 2020 to June 30, 2021. For context, the United States' rate during that time period for this measure was 8.57 percent.

The two rates differ for two main reasons: the different time periods being reported on and the size of the sample. The federal fraud rate is based on a small, statistically valid sample, while the state fraud rate is calculated using 100 percent of claims during the reporting period.

The pandemic caused the large increase in total UI payments in 2020. Although 2021 was significantly lower, the benefits paid in 2021 were still historically high. The federal CARES Act programs, including Pandemic Unemployment Assistance (PUA), Pandemic Emergency Unemployment Compensation (PEUC), Lost Wages Assistance (LWA), and Federal Pandemic Unemployment Compensation (FPUC) ended in 2021.

**FRAUD OVERPAYMENT DETECTION AMOUNTS AND DECISIONS BY SOURCE FOR 2020-2021**

Detection Method	2021		2020	
	Amount	Decisions	Amount	Decisions
Wage Record Cross-Match	\$2,859,563	1,008	\$570,578	400
Post Verification of Wages	\$488,962	219	\$118,893	80
Liabile Employer Protests Benefit Charges	\$3,903,589	1,546	\$1,247,693	862
Tips and Leads from Other than Liabile Employer	\$2,244,111	1,006	\$191,023	161
State New Hire Cross-Match	\$2,502,943	1,791	\$613,868	774
National New Hire Cross-Match	\$149,712	116	\$40,566	26
Quality Control	\$154,706	40	\$47,432	25
Inmate Cross-Match	\$140,135	144	\$5,324	6
Appriss Inmate Cross-Match	\$243,228	535	\$94,996	172
Post Verification - No Wages Reported	\$983,876	451	\$120,312	225
SSDI Cross-Match	\$1,606,888	265	\$102,419	46
Audit of Work Search	\$30,614	12	\$270	1
Field Audit Discoveries	\$6,120	3	\$0	0
Interstate Cross-Match	\$89,073	19	\$10,924	4
Deceased Citizen Cross-Match	\$0	0	\$2,220	1
Agency Detection - Not Covered by Other Codes	\$10,905,194	3,987	\$1,238,941	702
Claimant Initiated	\$863,259	332	\$129,440	76
<b>Total</b>	<b>\$27,171,973</b>	<b>11,474</b>	<b>\$4,534,899</b>	<b>3,561</b>

**BENEFIT AMOUNT REDUCTION AND PENALTY ASSESSMENT 2017-2021**

Other Fraud-Related Activity	2021	2020	2019	2018	2017
Benefit Amount Reduction	\$20,719,813	\$8,384,948	\$13,221,457	\$13,183,450	\$13,912,308
Penalties Assessed	\$10,048,170	\$1,088,758	\$1,883,649	\$1,899,471	\$1,961,063

## WORK SEARCH

The division has a well-established work search auditing program. UI claimants who are required to search for work must submit their work search record each week a claim is filed. These records are subject to random audits for program integrity purposes. These audits uncover mistakes made by claimants, instances of intentional fraud, and provide an opportunity for the division to educate claimants on what constitutes a valid work search action and what information is needed for the division to verify the action.

The work search requirement was reinstated as of the week ending May 29, 2021, after having been suspended in response to the spread of COVID-19. State law requires those who are applying for UI benefits to look for suitable jobs and provide information about their work search activities for each week they request benefits. After reinstatement, the division began targeted work search audits with the ultimate objective of 100% compliance. The department conducted 1,261 work search audits in 2021. Those audits resulted in 962 decisions finding work search requirements were not met.

## COMPLIANCE TOOLS

Wisconsin is very successful at recovering overpayments when they do occur. According to an internal UI longitudinal state study, over a 10-year period, 83 percent of fraud and 80 percent of non-fraud overpayments are collected. In 2021, the division recovered \$43.6 million in overpayments, including more than \$4.2 million in debts older than five years. This was achieved by utilizing the various mechanisms outlined below.

**Tax Refund Intercept** – The division can intercept claimant state and federal tax refunds. The division participates in the Treasury Offset Program (TOP) to intercept federal tax refunds. By utilizing the tools available through TOP, the division recovered almost \$4.7 million in overpayments, penalties, and collection costs in 2021. Another \$2.5 million was collected from the State Tax Offset program. The division is also able to intercept tax refunds for employer delinquencies. In 2021, receipts related to employer TOP totaled \$427,000. In addition, rather than have their tax refund intercepted, employers paid \$109,000 upon receipt of the Notice of Intent to Certify Debt to IRS for a collection total attributable to employer TOP of \$536,000.

**Benefit Offset** – Benefits are withheld from a claimant as an offset for an overpayment. The claimant does not receive UI benefit payments until the overpayment has been repaid.

**Out of State Offset** – Wisconsin UI can have another state withhold unemployment benefits to a claimant in that state to repay a Wisconsin overpayment.

**Bankruptcy** – Fraud debts are not dischargeable in bankruptcy. Division attorneys file adversary petitions to dispute discharge of the debt. A claim is also filed against the assets of the debtor.

**Warrants** – A lien is placed on the debtor's personal property to secure repayment of a delinquent debt.

**Levy Against Wages and Bank Accounts** – A levy is issued against wages, bank accounts, or any property belonging to the debtor.

**Financial Record Matching Program** – A financial record matching program is used by UI debt collectors to identify the bank accounts of delinquent UI debtors.

## CRIMINAL PROSECUTION FOR UI FRAUD

The division pursues criminal prosecution in cases of egregious fraudulent activity, and works cooperatively with county district attorneys, the Wisconsin Department of Justice (DOJ), and federal prosecutors.

Division staff investigate complex fraud cases. Many of these professionals have law enforcement experience.

All criminal investigations completed by benefit fraud investigators are referred to our Bureau of Legal Affairs (BOLA) for review by legal and investigative staff to ensure the investigations meet division standards for prosecution referral. After review, BOLA staff refer the cases to either a county district attorney or DOJ.

DWD works collaboratively with DOJ and the county district attorneys to determine which cases should be referred for prosecution. Although there were no new cases in 2021, two prosecution cases from 2020 were found guilty while the other six cases that were referred for prosecution in 2020 are still pending.

Ultimately, it is DOJ and the district attorneys who make the decision to file criminal charges. DOJ evaluates several factors in determining whether a case will be prosecuted, including:

- ▶ Whether evidence exists to prove intent to defraud;
- ▶ An individual's criminal history/history of defrauding government programs; and
- ▶ In cases involving employers, the employer's enforcement and compliance history.

In addition, the division works with the U.S. Department of Labor, Office of Inspector General, on complex fraud cases.



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