

TRAINING AND EMPLOYMENT NOTICE	NO. 12-23
	DATE December 1, 2023

TO: STATE WORKFORCE AGENCIES

FROM: LENITA JACOBS-SIMMONS /s/
Deputy Assistant Secretary

SUBJECT: Reminder on Federal Statute of Limitations on Criminal Prosecutions of Unemployment Insurance (UI) Fraud

1. **Purpose.** This Training and Employment Notice (TEN) reminds states of the statute of limitations for Federal prosecution of UI fraud and encourages states to submit timely referrals of COVID-19 pandemic era UI fraud cases to the Department of Labor’s (Department) Office of Inspector General (DOL-OIG).
2. **Action Requested.** The Employment and Training Administration (ETA) reminds State Workforce Agencies of their obligation to identify and then refer to DOL-OIG any pandemic era cases of UI fraud meeting the criteria for such referrals. It is important that states make timely referrals. States should consult Attachment 1 of Unemployment Insurance Program Letter (UIPL) No 04-17, Change 1, for the criteria for reporting UI fraud cases to DOL-OIG for investigation.
3. **Summary and Background.**
 - a. Summary – States are required to report allegations of UI fraud, waste, abuse, mismanagement, or misconduct to the DOL-OIG. This TEN highlights the importance of making timely referrals, particularly when considering the approaching expiration of the statute of limitations on federal prosecution of fraud.
 - b. Background – On August 3, 2021, ETA issued UIPL No. 04-17, Change 1, which among other things, advises states on the referral of allegations of UI fraud, waste, abuse, mismanagement, and misconduct to the DOL-OIG. The UIPL also includes a Memorandum from the DOL-OIG as Attachment I to the UIPL, which provides the criteria (Section II) for states to report suspected UI fraud, abuse, mismanagement, and misconduct to DOL-OIG. The DOL-OIG reviews these matters and is authorized to refer any findings to the appropriate program manager for action, or to the Department of Justice, U.S. Attorney, or cognizant prosecutor for criminal or civil prosecution.

As recognized in a recent DOL-OIG report,¹ ETA and state officials have called out that sophisticated fraud continues to be a major challenge to the UI programs and that the criminal elements adapt to countermeasures and shift tactics to continue to try to attack the UI system. DOL-OIG reports that as of June 9, 2023, its pandemic-related investigations have resulted in more than 1,350 indictments/initial charges with over 720 convictions.² The DOL-OIG's report further emphasized the importance of state cooperation with law enforcement and DOL-OIG to counteract the criminals who exploit the UI system.

4. **Reminder to States about the Need for Timely Referral of Pandemic Era UI Fraud Cases for Federal Criminal Investigation.** In accordance with a recent recommendation from DOL-OIG,³ ETA reminds states to submit timely referrals of UI claims involving allegations of fraud, waste, abuse, mismanagement, and misconduct to the DOL-OIG. ETA encourages states to focus on identifying and referring pandemic era cases as the statute of limitations is approaching on activities that occurred early in the pandemic.

Generally, the federal statute of limitations for fraud prosecutions is five (5) years under 18 U.S.C. § 3282. This means that federal prosecutions will start to become time-barred within five years of the date of activities supporting prosecution for fraud. For fraudulent activities occurring at the beginning of the pandemic and involving the payments of benefits under the regular UI programs and the temporary pandemic UI programs, as early as March 2020, the limitations period for pursuing prosecutions will start coming into effect in March 2025.

Investigators and prosecutors need adequate time to review and prepare prosecutions before actions are filed. To allow appropriate time to accomplish these activities, it is important that states refer cases meeting the criteria set out in Attachment I to UIPL No. 04-17, Change 1, as soon as possible.

States are encouraged to take the following actions:

- a. Review Attachment I to UIPL No. 04-17, Change 1, and be familiar with the criteria for referring UI fraud, waste, abuse, mismanagement, and misconduct to DOL-OIG for further investigation and action;
- b. Review pandemic era fraudulent UI claims/cases in the regular UI programs and the temporary pandemic-related UI programs and identify cases that meet the criteria for referral to DOL-OIG for further review and possible federal action;

¹ See *COVID-19: Pandemic Unemployment Assistance for Non-Traditional Claimants Weakened by Billions in Overpayments Including Fraud*, Report No. 19-23-014-03-315, issued September 27, 2023, <https://www.oig.dol.gov/public/reports/oa/2023/19-23-014-03-315.pdf>.

² *DOL-OIG Pandemic Response Oversight Plan*, revised June 30, 2023, [Revised Pandemic Response Oversight Plan](https://www.oig.dol.gov/public/reports/oa/2023/19-23-014-03-315.pdf).

³ See Recommendation 2 in *COVID-19: Pandemic Unemployment Assistance for Non-Traditional Claimants Weakened by Billions in Overpayments Including Fraud*, Report No. 19-23-014-03-315, issued September 27, 2023, <https://www.oig.dol.gov/public/reports/oa/2023/19-23-014-03-315.pdf>.

- c. Promptly refer any identified claims/cases to DOL-OIG pursuant to UIPL No. 04-17, Change 1; and
- d. Cooperate with DOL-OIG and law enforcement on any subsequent criminal fraud investigations and provide requested information to support such investigations and any resulting prosecutions.

5. **Inquiries.** Please direct inquiries to the appropriate ETA Regional Office.

6. **References.**

- 18 U.S.C. § 3282;
- Section 303(a)(1), SSA (42 U.S.C. 503(a)(1));
- American Rescue Plan Act of 2021 (ARPA), including Title IX, Subtitle A, Crisis Support for Unemployed Workers (Pub. L. 117-2);
- Consolidated Appropriations Act, 2021, including Division N, Title II, Subtitle A, the Continued Assistance for Unemployed Workers Act of 2020 (Continued Assistance Act) (Pub. L. 116-260);
- Coronavirus Aid, Relief, and Economic Security (CARES) Act, including Title II, Subtitle A, Relief for Workers Affected by Coronavirus Act (Pub. L. 116-136);
- Inspector General Act of 1978, Pub. L. 95-452, as amended;
- UIPL No. 04-17, Change 1, *Requirement for States to Refer Allegations of Unemployment Compensation (UC) Fraud, Waste, Abuse, Mismanagement, or Misconduct to the Department of Labor's (Department) Office of Inspector General's (DOL-OIG) and to Disclose Information Related to the Coronavirus Aid, Relief, and Economic Security (CARES) Act to DOL-OIG for Purposes of UC Fraud Investigation and Audits*, issued August 3, 2021, https://wdr.doleta.gov/directives/corr_doc.cfm?DOCN=5817; and
- TEN No. 05-22, *Authority of the U.S. Department of Labor's (Department) Office of Inspector General (DOL-OIG) to Receive Confidential Unemployment Compensation (UC) Data*, issued September 15, 2022, <https://www.dol.gov/agencies/eta/advisories/training-and-employment-notice-no-05-22>.

7. **Attachment.** None.