EMPLOYMENT AND TRAINING ADMINISTRATION ADVISORY SYSTEM U.S. DEPARTMENT OF LABOR Washington, D.C. 20210	CLASSIFICATION UI
	CORRESPONDENCE SYMBOL OUI/DPM
	DATE June 9, 2011

ADVISORY: **UNEMPLOYMENT INSURANCE PROGRAM LETTER NO. 17-11**

TO: STATE WORKFORCE AGENCIES

FROM: JANE OATES /s/
Assistant Secretary

SUBJECT: Proposed Performance Measure for Unemployment Insurance (UI) Integrity

1. Purpose. To describe and solicit comments on a proposed UI Performs Core Measure for UI Integrity.

2. References. Improper Payments Information Act of 2002 (31 U.S.C. 3321 note); Executive Order (E. O.) 13520, 74 Fed. Reg. 62,201 (November 20, 2009); Improper Payments Elimination and Recovery Act of 2010 (31 U.S.C. 3321 note); U. S. Department of Labor Fiscal Year (FY) 2010 Agency Financial Report (AFR) (November 15, 2010), http://www.dol.gov/_sec/media/reports/annual2010/2010annualreport.pdf.

3. Background. As required by the Improper Payments Information Act of 2002 (IPIA), the U. S. Department of Labor (Department) estimates and reports the annual rates and amounts of improper payments in the UI program. These estimates are based on the results of the Benefit Accuracy Measurement (BAM) survey of paid and denied UI claims in the State UI, Unemployment Compensation for Federal Employees (UCFE), and Unemployment Compensation for Ex-Service Members (UCX) programs.

On November 20, 2009, President Obama signed E. O. 13520, "Reducing Improper Payments." The purpose of this E. O. is "to reduce improper payments by intensifying efforts to eliminate payment error, waste, fraud, and abuse in the major programs administered by the Federal Government, while continuing to ensure that Federal programs serve and provide access to their intended beneficiaries." The order implements a comprehensive set of policies, including "coordinated Federal, State, and local government action in identifying and eliminating improper payments."

E. O. 13520, in part, works in tandem with the Improper Payments Elimination and Recovery Act of 2010 (IPERA), which amended the IPIA. IPERA established several criteria that Federal agencies must meet in order to be in compliance with the law, including the requirement that the agency has reported an improper payment rate of less than 10 percent for each program and

RESCISSIONS **None**	EXPIRATION DATE **Continuing**

activity to which the IPIA and IPERA apply. For the 2010 IPIA reporting period, the Department reported an improper payment rate of 11.2 percent (10.6 percent overpayment rate and 0.6 percent underpayment rate) in its FY 2010 AFR, p. 179.

Because the UI program is not in compliance with IPERA, the Department has developed a Strategic Plan that includes several initiatives to address the root causes of UI improper payments and bring the program into compliance. One element of the Strategic Plan is the development of a new performance measure under the UI Performs performance management system to address the leading cause of UI improper payments -- claimants who return to work and who continue to claim and collect UI benefits. In FY 2010, these benefit year earnings (BYE) overpayments totaled $2.1 billion, which represented 3.4 percent of total UI benefits paid and nearly 30 percent of all overpayments.

Initially, this measure would be defined in terms of the percentage of BYE overpayments due to fraud, estimated by the BAM survey. However, the Department plans to request authorization from the Office of Management and Budget under the Paperwork Reduction Act to collect data on the distribution of BYE overpayments established by state Benefit Payment Control activities by the number of weeks that were overpaid. Once this data collection has been implemented, the performance measure would be defined in terms of reducing BYE overpayments of five weeks or more.

4. Proposed Measure and Acceptable Level of Performance (ALP).

Measure Definition: Percentage of UI benefits overpaid due to BYE fraud.

Benchmark Period: The benchmark would be the state's average BYE fraud rate for the previous three calendar years (CY). This would result in more accurate estimates due to the larger samples and would smooth out year-to-year variances due to macroeconomic factors. A table of BYE fraud rates by state for the CY 2008 - 2010 baseline period is provided in Attachment A.

Acceptable Level of Performance (ALP): Reduce the percentage of UI benefits overpaid due to BYE fraud from the baseline level by 35 percent at the end of the first year of implementation and by 50 percent by the end of the second year of implementation. Performance would be measured by the BYE fraud rate, estimated by the BAM survey, rather than the amount overpaid, to control for year-to-year changes in benefit outlays. A table of ALP targets by state is provided in Attachment A.

Calculation: The measure would be calculated from BAM data using the following data elements:

- Dollar Amount of Key Week Error (BAM data element ei1 - defines the overpayment amount for the key (sampled) week of benefits)
- Key Week Action (BAM data element ei2 = 10 - defines fraud overpayments)
- Error Cause (BAM data element ei3 = 100-119 and 150-159 - defines BYE overpayments)
- Original Amount Paid (BAM data element f13 - defines amount paid to claimant in key week)

The rate (expressed as a percentage) would be the weighted (by the number of paid UI weeks in the BAM survey population) estimate of:

$$\frac{\textbf{Amount overpaid due to BYE Fraud}}{\textbf{Amount of UI benefits paid}} \times 100$$

Performance Period: In order to include the results in the State Quality Service Plan (SQSP), the performance period would be based on BAM data for the CY. Per the BAM State Operations Handbook (ET Handbook 395, 5th edition), 98 percent of BAM cases must be completed by 120 days after the end of the CY (April 30, or April 29 in leap years). The first measurement period would be CY 2012.

Sampling Error: Because this measure would be based on sample data, the sampling error would be taken into account in determining whether a state meets its ALP.

Failure to Meet the ALP: States failing to meet the ALP would be expected to develop a Corrective Action Plan as part of the SQSP. The first SQSP performance period would be CY 2012.

Future ALPs: As states reduce their BYE fraud overpayment rates, percentage reductions for performance periods after CY 2013 would be adjusted to reflect ALPs that are cost effective for state agencies to achieve.

Data Collection Costs: Because the performance measure would initially use data collected through the BAM survey, there would be no data collection start-up costs for this performance measure.

5. Action Requested. State Administrators are requested to:

- provide the above information to appropriate staff; and
- provide comments within 30 days from the date of this advisory on the proposed definition, ALP, and method of calculation. Comments should be sent to Andrew Spisak by e-mail (Spisak.Andrew@dol.gov), fax (202-693-3975), or mail:

  Mr. Andrew Spisak
  U. S. Department of Labor
  ETA / Office of Unemployment Insurance
  200 Constitution Avenue, NW, Room S-4231
  Washington, DC 20210

6. Inquiries. All inquiries should be directed to the appropriate Employment and Training Administration Regional Administrator.

7. Attachments.

Attachment A - State baseline performance and ALP targets.
Attachment B - Benefit Year Earnings Performance Measure Technical Analysis.