

STATE OF WISCONSIN



Department of Workforce Development

WISCONSIN UNEMPLOYMENT INSURANCE

✓ Integrity

✓ Customer Service

✓ Accountability

2023

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, 2023

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 2023 Unemployment Insurance (UI) Fraud Report, outlining the division's activities related to detection and prosecution of unemployment insurance fraud in 2022.

In 2022, average initial unemployment claims and average weekly claims have dropped to historic lows. Wisconsin's economy set numerous records in 2022, with a record low unemployment rate of 2.8% reached in March and April, and a record high number of 3,059,000 people employed in May. December's Labor Force Participation Rate reached 64.7%, which is 2.4% higher than the national rate. Wisconsin's workforce productivity drove real gross domestic product to a record high of \$312.4 billion in the first quarter of 2022. In this record-setting year of 2022, Wisconsin paid nearly \$345 million in federal and state benefits compared to the nearly \$2.5 billion paid in 2021.

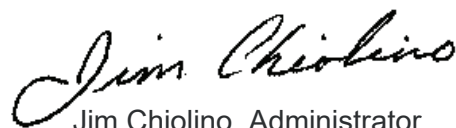
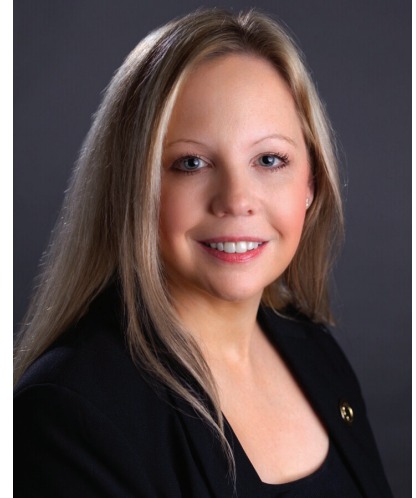
As the agency had the opportunity to look into the unprecedented payments made during the pandemic years, fraud overpayments were detected through tools such as the NASWA's Integrity Data Hub, which UI implemented in 2022. As reported below, of the \$344.5 million UI payments made in 2022, 0.4% were found to be fraud overpayments. In 2021, of the \$2.48 billion UI payments, 1.19% were found to be fraud overpayments. In 2020, of the \$4.84 billion UI payments, 0.53% were found to be fraud overpayments.

This low percentage of fraud overpayments underscores the commitment of Gov. Tony Evers and DWD leadership to combat UI fraud with modern technology. Modernization will allow UI to efficiently evaluate claims and accelerate response times, as well as perform effective fraudulent claim screening. Our dedicated staff and these system upgrades are essential to protecting the integrity of the unemployment insurance program, while ensuring workers receive essential payments in a timely and fair manner and employers are assessed the proper tax rate.

Sincerely,



Amy Pechacek, Secretary-designee
Department of Workforce Development



Jim Chiolino, Administrator
Unemployment Insurance Division

DETECTION TOOLS

Dedicated UI Workers

One of the best tools for fraud detection is a vigilant UI staff. The Benefit Operations Bureau's Integrity and Quality Section consists of experienced investigators who handle the most complex and organized efforts to defraud the unemployment insurance system. Integrity and Quality Section investigators provide training to other UI staff on methods for detecting and reporting fraud.

Wage Verification

Each week, UI sends wage verification notices to employers when claimants report wages in a week as well as when claimants report no wages in a week. This allows employers the opportunity to report wages and other eligibility issues in a timely manner. Employers and their representatives can report by paper (mail or fax), or online through the UI State Information Data Exchange System (SIDES), a convenient electronic resource developed in collaboration with the U.S. Department of Labor (USDOL).

Participation in NASWA's Integrity Data Hub to Detect and Prevent Fraud

Building on its multifaceted, modernized approach to detect and prevent fraud, DWD now participates in the National Association of State Workforce Agencies' Integrity Data Hub, which provides states with cross-matching verification options for identifying potential unemployment fraud and improper payments.

The additional fraud identification tools available through the data hub include:

- ▶ The Suspicious Actor Repository, which allows states to compare UI claims against a list of suspicious claims from other states.
- ▶ A database of suspicious email domains.
- ▶ A database of foreign IP addresses.
- ▶ Data analysis tools that allow states to compare claims to national data and conduct cross-state validation checks.
- ▶ A multistate database of UI claims data.
- ▶ A centralized identity verification service.
- ▶ The Fraud Alert System, which allows states to share information about new fraud schemes.
- ▶ Bank account verification, which enables states to validate bank account ownership and status.

These modernized tools add to DWD's existing fraud prevention and detection technology. These tools include the wage records cross-match, state and national new hire cross-matches, work search audits, interstate cross-match, and deceased citizen cross-match, to name a few.

Cross-Matches

The division uses numerous cross-matches to detect 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 that 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 have returned 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 detect if UI claims continue to be filed after a claimant is deceased.
- ▶ **Social Security Disability Insurance (SSDI) Cross-Match** – This cross-match compares individuals currently listed as receiving SSDI 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:

- ▶ Employer audits, which resulted in \$1,061,639 additional employer contributions in 2022.
- ▶ Employer complaints and public tips concerning suspected fraudulent claims.
- ▶ Contacts from local, state, and federal law enforcement officers regarding suspicious activities.
- ▶ Analyzing IRS 1099 Form data provided by the Internal Revenue Service to identify and investigate employers who may be misclassifying employees as independent contractors.
- ▶ U.S. Bank's sophisticated fraud monitoring tools, which allow the department to monitor, predict, and respond quickly to suspected fraudulent activity.
- ▶ Quarterly meetings with other state agencies to discuss fraud trends and cases of mutual interest. Agencies share information to detect, investigate, and prevent fraud from occurring across agencies.

WORKER CLASSIFICATION

Worker misclassification occurs when an employer treats individuals as independent contractors when they are actually employees. Under the law, workers are presumed to be employees unless the employer proves that workers meet the legal criteria to be independent contractors. Employers who misclassify workers avoid UI taxes, state and federal income tax withholding, worker's compensation coverage, and Social Security and Medicare taxes. Employers who misclassify workers as independent contractors gain an unfair competitive advantage over other employers. Worker misclassification 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 had they been properly classified.

In 2022, the UI Division conducted 1,836 audits and identified 6,295 misclassified workers. As a result, \$1,061,639 was assessed in UI taxes and \$128,045 in interest.

In addition to audits, investigators, many of whom have white collar and economic crime law enforcement backgrounds, also conduct worksite investigations. The division conducted 604 worker classification field investigations in 2022, resulting in 191 audit referrals.

FRAUD OVERPAYMENTS

The UI Division remains committed to ensuring the integrity of the UI program. The COVID-19 pandemic resulted in a record number of claims filed and benefits paid. 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.

Whereas 2020 and 2021 had historically high benefit payments due to the COVID-19 pandemic, 2022 had historically low benefit payments — the lowest since the late 1980s. DWD paid a historically low total of \$344.5 million in federal and state benefits in 2022, following historically high benefits paid of \$7.32 billion in 2020 and 2021.

Due to the high benefit payment years and the time required to complete fraud investigations, the vast majority of fraud overpayments detected in 2022 occurred during 2020 and 2021. In some cases, investigations to determine whether fraud has occurred involve cooperation of multiple public and/or private entities. However, DWD Unemployment Insurance Division's efforts over the past year resolved a myriad of complex claims investigations filed during the COVID-19 pandemic.

Of the total \$27.3 million fraud overpayments detected in 2022, 94% of those overpayments first occurred in 2020 or 2021, and only 5% of the fraud overpayments first occurred in 2022. Below is the distribution of fraud overpayments detected in 2022 by the year the first fraud overpayment occurred. Note that benefit payments may have continued over more than one calendar year.

FRAUD OVERPAYMENTS DETECTED IN 2022 – STATE AND FEDERAL PROGRAMS

Year Fraud First Occurred	Fraud Overpayment Amount	Percent of Total Fraud Overpayments Detected in 2022
2020	\$9,820,756	36%
2021	\$15,842,108	58%
2022	\$1,364,341	5%
Other	\$273,764	1%
Total	\$27,300,969	100%

FRAUD OVERPAYMENTS AS A PERCENTAGE OF TOTAL UI PAYMENTS

The chart below shows the adjusted total fraud overpayments by the year fraud first occurred. To summarize: in 2022, of the \$344.5 million UI payments, 0.4% were found to be fraud overpayments. In 2021, of the \$2.48 billion UI payments, 1.19% were found to be fraud overpayments. In 2020, of the \$4.84 billion UI payments, 0.53% were found to be fraud overpayments.

	2022 Amount	2021 Amount	2020 Amount
Total UI Payments Administered (State and Federal)	\$344,545,768	\$2,481,203,431	\$4,839,149,601
Adjusted Total Fraud Overpayments (By Year of First Occurrence) ¹	\$1,364,341	\$29,637,714	\$25,814,307
Percentage of Total Payments	0.40%	1.19%	0.53%

¹ In previous annual fraud reports (see [Fraud Report to the UI Advisory Council Report History \(https://dwd.wisconsin.gov/uibola/uiac/reports/fraud.htm\)](https://dwd.wisconsin.gov/uibola/uiac/reports/fraud.htm)), the rate of fraud was calculated by the amount of fraud overpayments detected that calendar year versus the total UI payments made that calendar year. Given the unprecedented circumstances of the COVID-19 pandemic, record high benefits paid in 2020 and 2021, and that 94% of the fraud overpayments detected in 2022 first occurred in 2020 and 2021, this chart combines fraud investigation data and reporting from the past three years to reflect the rate of fraud detection more accurately during this exceptional period of high benefit payments.

DWD uses an array of tools and techniques to detect fraud overpayments. The fraud overpayment amounts and detection methods follow.

FRAUD OVERPAYMENT DETECTION AMOUNTS AND DECISIONS BY SOURCE FOR 2021-2022

Detection Method	2022		2021	
	Amount	Decisions	Amount	Decisions
Wage Record Cross-Match	\$5,963,477	2,278	\$2,859,563	1,008
Post Verification of Wages	\$664,074	312	\$488,962	219
Liabe Employer Protests Benefit Charges	\$2,003,136	885	\$3,903,589	1,546
Tips and Leads from Other than Liabe Employer	\$1,133,813	580	\$2,244,111	1,006
State New Hire Cross-Match	\$1,347,630	1,057	\$2,502,943	1,791
National New Hire Cross-Match	\$111,303	52	\$149,712	116
Quality Control	\$35,519	18	\$154,706	40
Reversals	\$19,618	6	\$0	0
Inmate Cross-Match	\$4,335	5	\$140,135	144
Appriss Inmate Cross-Match	\$41,660	95	\$243,228	535
Post Verification - No Wages Reported	\$564,193	286	\$983,876	451
SSDI Cross-Match	\$244,908	55	\$1,606,888	265
Audit of Work Search	\$21,504	15	\$30,614	12
Field Audit Discoveries	\$64,127	44	\$6,120	3
Interstate Cross-Match	\$9,660	4	\$89,073	19
Deceased Citizen Cross-Match	\$0	0	\$0	0
Agency Detection - Not Covered by Other Codes	\$14,548,886	5,277	\$10,905,194	3,987
Fictitious Employer Cases	\$18,820	3		
Claimant Initiated	\$504,306	241	\$863,259	332
Total	\$27,300,969	11,213	\$27,171,973	11,474

Wisconsin law provides administrative penalties and potential criminal prosecution for fraudulent UI claims. A claimant who intentionally conceals information affecting benefit eligibility is assessed a benefit amount reduction, which is a withholding of future payable benefits, for the intentional concealment of information affecting benefit eligibility. Claimants who have filed fraudulent claims receive a benefit amount reduction of two, four, or eight times the weekly benefit rate for each week of fraud or concealment. This is in addition to any overpayment which must be repaid. Benefit amount reductions remain in effect for six years or until satisfied, whichever occurs first. In addition, the claimant will be assessed a penalty of 40% of the overpayment amount resulting from the fraud or concealment.

BENEFIT AMOUNT REDUCTION AND PENALTY ASSESSMENT 2018-2022

Other Fraud-Related Activity	2022	2021	2020	2019	2018
Benefit Amount Reduction	\$23,971,068	\$20,719,813	\$8,384,948	\$13,221,457	\$13,183,450
Penalties Assessed	\$10,902,766	\$10,048,170	\$1,088,758	\$1,883,649	\$1,899,471

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 or targeted audits for program integrity purposes. These audits can uncover mistakes made by claimants or instances of intentional fraud, as well as provide an opportunity to educate claimants on what constitutes a valid work search action and what information is needed by the division to verify work searches.

In 2022, DWD completed 22,012 work search audits. The audits resulted in 9,045 adverse decisions with benefits denied, including when claimants failed to conduct four valid work search actions. An additional 27,404 adverse determinations were issued for failure to answer the work search question or failure to provide required information on the weekly claim before the claim paid.

COMPLIANCE TOOLS

Wisconsin is very successful at recovering overpayments when they do occur. According to an internal UI longitudinal state study spanning a 10-year period, 83% of fraud and 80% of non-fraud overpayments are collected. In 2022, the division recovered \$37.9 million in state and federal fraud and non-fraud overpayments, including \$3.4 million in debts older than five years.

OVERPAYMENT RECOVERIES IN 2022 BY YEAR OF THE DECISION

Year Identified	Fraud	Non-Fraud	Total
2022	\$958,211	\$9,981,928	\$10,940,139
2021	\$3,523,009	\$14,797,741	\$18,320,750
2020	\$544,106	\$3,816,350	\$4,360,456
2019	\$339,043	\$145,119	\$484,162
2018	\$193,921	\$56,981	\$250,902
2017	\$133,936	\$54,752	\$188,688
Older Than Five Years	\$2,717,695	\$639,043	\$3,356,738
Total collected in 2022	\$8,409,921	\$29,491,914	\$37,901,835

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 \$6.9 million in overpayments, penalties, and collection costs in 2022. Another \$4.5 million was collected from a similar program with Wisconsin Department of Revenue, the State Tax Offset program.
- ▶ **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 request another state withhold claimant unemployment benefits 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 benefit 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 previous law enforcement experience. Criminal investigations completed by benefit fraud investigators are referred to either DOJ or a county district attorney.

DWD works collaboratively with DOJ and county district attorneys to determine which cases should be referred for prosecution. Although there were no new benefit cases in 2022, seven ongoing cases closed in 2022. In five of these cases, guilty verdicts were obtained, and the remaining were dismissed. Five unresolved cases remain from 2020.

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.

Additionally, the UI division works with the USDOL Office of Inspector General on complex fraud cases.

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