

## COMMITTEE ON WAYS AND MEANS

U.S. HOUSE OF REPRESENTATIVES

WASHINGTON, DC 20515

November 3, 2022

The Honorable Marty Walsh  
Secretary  
U.S. Department of Labor  
200 Constitution Avenue, NW  
Washington, D.C. 20210

Dear Secretary Walsh,

Since the Summer of 2020, repeated alerts from federal law enforcement agencies warned of targeted efforts involving organized cybercrime, foreign actors, and international crime rings using stolen identities of American citizens to obtain fraudulent unemployment benefits. Fraud estimates range from \$80 billion<sup>1</sup> to as much as \$400 billion, which is nearly half of all the COVID-19 unemployment aid.<sup>2</sup>

We write to reiterate prior requests for information and to request that you preserve all documents and communications in your custody relating to the Administration's knowledge of pandemic unemployment insurance (UI) fraud.

Moreover, the U.S. Department of Labor Office of Inspector General (DOL OIG) recently released an audit that examines whether the Employment and Training Administration and states ensured UI benefits were paid only to eligible individuals, and whether they were paid promptly.<sup>3</sup> The audit found that of the four states DOL OIG tested, from March 28, 2020, to September 30, 2020, an estimated \$30.4 billion of the \$71.7 billion (42.4 percent) in Pandemic Unemployment Assistance (PUA) and Federal Pandemic Unemployment Compensation benefits were paid improperly.<sup>4</sup> Of that, DOL OIG estimates that \$9.9 billion (13.8 percent) was paid to

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<sup>1</sup> In December 2021, the White House estimated that nearly 19 percent of total COVID-19 unemployment insurance payments were lost to improper payments—offering a low estimate of roughly \$80 billion. See The White House, Updated Data on Improper Payments (Dec. 30, 2021), <https://www.whitehouse.gov/omb/briefing-room/2021/12/30/updated-data-on-improper-payments/>.

<sup>2</sup> See e.g., Felix Salmon, *Half of the pandemic's unemployment money may have been stolen*, AXIOS (June 10, 2021), <https://www.axios.com/2021/06/10/pandemic-unemployment-fraud-benefits-stolen>; Jack Kelly, *After A Brazen \$400 Billion Unemployment Funds Heist, The U.S. Secret Service Seized Back The Money From Criminals*, FORBES (Dec. 22, 2021), <https://www.forbes.com/sites/jackkelly/2021/12/22/after-a-brazen-400-billion-unemployment-funds-heist-the-us-secret-service-seized-back-the-money-from-criminals/?sh=7eea0186f973>.

<sup>3</sup> U.S. Dept. of Labor Office of Inspector General—Office of Audit, Report to the Employment and Training Administration, *COVID-19: ETA and States Did Not Protect Pandemic-Related UI Funds from Improper Payments Including Fraud or from Payment Delays*, Report No. 19-22-006-03-315 (Sept. 30, 2022), <https://www.oig.dol.gov/public/reports/oa/2022/19-22-006-03-315.pdf>.

<sup>4</sup> *Id.*

likely fraudsters.<sup>5</sup> This means that in the sample of four states DOL OIG included in its audit, “1 in 5 dollars initially paid in PUA benefits went to likely fraudsters.”<sup>6</sup>

The amount of UI fraud is staggering, which is why congressional Republicans have repeatedly sought information about the billions of taxpayer dollars stolen due to fraud and worked to stop the “pay and chase” model and improve accountability in pandemic unemployment programs. Today we reiterate our requests for information about the Administration’s knowledge of UI fraud and what is being done to recover stolen dollars.

Specifically, in December 2020, Ways and Means Republicans passed the bipartisan Consolidated Appropriations Act (P.L. 116-260) and worked hard to include improvements to the pandemic unemployment assistance program by requiring documentation of prior employment and earnings within 21 days of application. The bill also included a phase-out period.

On May 10, 2021, House Ways and Means Committee Ranking Member Brady and Senate Finance Committee Ranking Member Crapo sent a letter to DOL with a series of questions related to outlays of the \$2 billion in funding the Department received through the American Rescue Plan Act (ARPA) (P.L. 117-2).<sup>7</sup> This funding was provided specifically to “detect fraud and prevent fraud, promote equitable access, and ensure timely payment of benefits with respect to unemployment compensation programs...”<sup>8</sup> DOL has not provided a written response to this letter, despite multiple follow-ups.

On August 31, 2021, Ranking Member Brady, Ranking Member Crapo, and then-Ranking Member of the Ways and Means Subcommittee on Worker and Family Support Walorski sent a letter to the U.S. Government Accountability Office (GAO) requesting that GAO, as part of its mission and ongoing work to reduce improper payments and safeguard federal funds, investigate, and provide a national estimate of funds lost because of fraudulent activity.<sup>9</sup>

On February 18, 2022, House Ways and Means Ranking Member Brady, House Oversight and Reform Ranking Member Comer, Senate Finance Committee Ranking Member Crapo, Senate Health, Education, Labor and Pensions Committee Ranking Member Burr, and Senate Homeland Security and Governmental Affairs Ranking Member Portman sent a letter to Secretary Walsh urging DOL to hold off on its guidance that would allow states to forgo recovery of overpayments in pandemic unemployment programs, and asked that the Department

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<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> Letter from H. Comm. on Ways and Means Ranking Member Kevin Brady, et al., to The Hon. Martin Walsh, Sec’y of the U.S. Department of Labor (May 10, 2021), [https://gop-waysandmeans.house.gov/wp-content/uploads/2021/05/DOL-Letter\\_UI-Fraud\\_5.10.21-FINAL.pdf](https://gop-waysandmeans.house.gov/wp-content/uploads/2021/05/DOL-Letter_UI-Fraud_5.10.21-FINAL.pdf).

<sup>8</sup> Public Law 117-2, Section 9032.

<sup>9</sup> Letter from H. Comm. on Ways and Means Ranking Member Kevin Brady, et al., to The Hon. Gene Dodaro, Comptroller General of GAO (Aug. 31, 2021), <https://gop-waysandmeans.house.gov/wp-content/uploads/2021/08/GAO-UI-fraud-request-letter-083121.pdf>.

justify the legal basis for the guidance.<sup>10</sup> DOL responded to the February 18, 2022, letter on April 29, 2022, but the response was incomplete. The Members also sent a letter to DOL OIG asking how blanket waivers of overpayments could impact ongoing unemployment fraud investigations.<sup>11</sup> DOL OIG provided a response on March 16, 2022.

Lastly, on May 31, 2022, House Ways and Means Ranking Member Brady, House Budget Committee Ranking Member Smith, House Judiciary Committee Ranking Member Jordan, and House Small Business Committee Ranking Member Luetkemeyer sent a letter to Attorney General Garland demanding answers on the progress of the Biden Administration's investigation into the billions of taxpayer dollars that have been stolen or improperly paid.<sup>12</sup> DOJ responded to the May 21, 2022, letter on August 16, 2022, but the response was insufficient.

In an effort to obtain information from the Administration about DOL's knowledge of UI dollars flowing to international crime syndicates, Ways and Means Ranking Member Brady and Worker and Family Support then-Subcommittee Ranking Member Walorski filed a Resolution of Inquiry on July 26, 2022, directing the Secretary of DOL to provide to the House of Representatives certain documents in the Secretary's possession relating to UI fraud during the COVID-19 pandemic.<sup>13</sup> Unfortunately, on September 20, 2022, the Committee on Ways and Means unfavorably reported H. Res. 1288.

The lack of a sufficient response and action from the Administration to date is disappointing and unacceptable. According to an article in *The Washington Post*, only 2.4 percent of wrongful payments have been recovered.<sup>14</sup> Transparency is essential because it promotes accountability and provides information for the Congress and Americans about what the federal government is doing. The American people deserve a government that is accountable, which is especially critical when such a staggering amount of fraud has occurred.

Despite the Administration's inadequate response to our initial request and its actions—or lack thereof—to recover billions of dollars, we continue to expect that the Department provide the documents and information requested in the May 10, 2021, and February 18, 2022, letters, which are attached here for your reference.

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<sup>10</sup> Letter from H. Comm. on Ways and Means Ranking Member Kevin Brady, et al., to The Hon. Marty Walsh, Sec'y of U.S. Dept. of Labor (Feb. 18, 2022), <https://gop-waysandmeans.house.gov/wp-content/uploads/2022/02/Letter-to-DOL-re.-ETA-UIPL-2.18.22-FINAL.pdf>.

<sup>11</sup> Letter from H. Comm. on Ways and Means Ranking Member Kevin Brady, et al., to The Hon. Larry Turner, Inspector General, U.S. Dept. of Labor (Feb. 18, 2022), <https://gop-waysandmeans.house.gov/wp-content/uploads/2022/02/Letter-to-OIG-re.-UIPL-2.18.22-FINAL.pdf>.

<sup>12</sup> Letter from H. Comm. on Ways and Means Ranking Member Kevin Brady, et al., to The Hon. Merrick B. Garland, Attorney General, U.S. Dept. of Justice (May 31, 2022), <https://gop-waysandmeans.house.gov/wp-content/uploads/2022/05/Letter-to-Attorney-General-Garland-5.31.22.pdf>.

<sup>13</sup> H. Res. 1288, 117th Cong. (2022), <https://gop-waysandmeans.house.gov/wp-content/uploads/2022/09/H.-RES.-1288.pdf>.

<sup>14</sup> Tony Romm and Yeganeh Torbati, 'A magnet for rip-off artists': Fraud siphoned billions from pandemic unemployment benefits, *THE WASHINGTON POST* (May 15, 2022), <https://www.washingtonpost.com/us-policy/2022/05/15/unemployment-pandemic-fraud-identity-theft/>.

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Moreover, we write to insist that you take all appropriate measures to collect and preserve all documents, communications, and other records that are relevant to the Administration's knowledge of UI fraud. Please provide a response to the May 10, 2021, and February 18, 2022, letters and confirm that you have taken actions to preserve documents related to this matter by November 17, 2022. If you have any questions or wish to discuss the request, please contact Sean Clerget or Brittany Havens of the Ways and Means Committee staff at (202) 225-4021.

Sincerely,

A handwritten signature in blue ink that reads "KEVIN BRADY". The signature is stylized with a large, sweeping initial "K" and "B".

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Kevin Brady  
Republican Leader  
Committee on Ways and Means

A handwritten signature in blue ink that reads "Brad R. Wenstrup". The signature is written in a cursive, flowing style.

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Brad Wenstrup  
Committee on Ways and Means