

**Statement of Samuel T. Mok**

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**Before the**

**Subcommittee on Federal Financial Management, Government Information, and**

**International Security**

**Committee on Homeland Security and Governmental Affairs**

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Thank you, Mr. Chairman, Senator Carper, and Members of the Committee.

I appreciate the opportunity to testify before this Subcommittee to discuss the U.S. Department of Labor's (DOL) compliance with the Improper Payments Information Act of 2002 (IPIA), ways in which we measure improper payments to determine their magnitude, and suggestions for legislative changes that would enhance our efforts to eliminate improper payments. Developing strategies and the means to reduce improper payments is a matter of good stewardship for us: accurate payments lower program costs.

In fiscal year (FY) 2005, the Department had two benefit programs and one grant program classified at high risk for improper payments. All three of these programs—Unemployment Insurance (UI), the Federal Employees Compensation Act (FECA), and the Workforce Investment Act (WIA)—are designated as high risk under former Section 57 of OMB Circular A-11 because each program makes annual payments in excess of \$2 billion. As such, the Department must report on each regardless of the estimated improper payment amount. Of

the three programs, our analysis indicates that only the Unemployment Insurance program has an improper payment rate above threshold for reporting. In FY 2005, the estimated improper payments for these programs were as follows: Unemployment Insurance benefits—\$3.3 billion, Federal Employees Compensation Act benefits—\$3 million, and Workforce Investment Act grants—\$8 million. The UI program had an estimated overpayment rate of 9.46%. For comparison, the FECA program had an estimated error rate of 0.13% and the WIA program had an estimated error rate of 0.21%.

I am pleased to report that in FY 2005 the Department met its improper payments reduction and recovery targets for each of these programs using the criteria established under guidance from the Office of Management and Budget (OMB). Improper UI payments fell by approximately \$600 million in FY 2005. This represents a greater than 15% decrease in the dollar amount of improper payments for this program since last year's reporting.

We developed our FY 2005 IPIA analysis by establishing criteria for determining levels of risk and evaluating our programs against these criteria. We found it necessary to use different methodologies for assessing the risks of improper payments for our benefit programs and grant programs because of the differences in the administration of these two different types of programs and the availability of data.

The Department of Labor's analytical methodologies for determining improper payments are discussed in detail in our FY 2005 Performance and Accountability Report. But, I would take a moment to highlight our efforts regarding Workforce Investment Act improper payments, which pose unique challenges to quantify. The WIA program is the only DOL Section 57 program for which data is not readily available to develop a statistically valid estimate of improper payments. WIA's complex funding stream makes it very difficult to assess the improper payment rate at the terminal dollar level.

Because the Department provides grants to States, cities, counties, private non-profits, and other organizations to operate programs, we must rely significantly on single audits as required under the Single Audit Act to monitor funding to grant recipients. For the WIA program, we analyzed all available single audit reports to determine the improper payment rate and were able to validate information on “questioned costs” as a proxy for improper payments. We found the total questioned costs for the WIA program as identified in single audit reports to be very low—approximately \$8 million for \$3.7 billion in outlays in FY 2005.

In summation, our improper payment analysis disclosed only one program, Unemployment Insurance, to be high risk for improper payments. Two other programs, FECA and WIA, were reported as high risk because they are designated as such in Section 57, although our internal risk assessments indicate a low level of risk.

The Department seeks to be proactive in addressing improper payments. Therefore, we will continue to sample and test other DOL programs in order to detect and mitigate unexpected increases in improper payments.

Let me take a few minutes to focus on the Department’s program with the highest dollar outlays and with the highest rate of improper payments—Unemployment Insurance. Unemployment benefits serve as our first line of economic defense against the ripple effects of unemployment by providing temporary, partial wage replacement to laid-off workers to maintain their purchasing power and helping to stabilize local economies. The UI program is a Federal-State partnership based upon Federal law, but is administered by State employees under State law. Federal law established the broad coverage provisions and certain minimum requirements for State UI laws. Within this framework, each State designs and administers its own UI program. Key State functions include taking claims from individuals, determining benefit

eligibility, ensuring timely and accurate payments of benefits to jobless workers, and determining employer liability and assessing and collecting State UI taxes.

The Federal government's primary role is one of oversight. The Department of Labor's key functions are ensuring State law and practice meet Federal requirements, setting broad overall policy for administration of the UI program, monitoring State performance, providing technical assistance, and providing funds for administration of State programs. However, in our efforts to reduce improper payments in the UI program, the Department acknowledges the efforts of States to balance the need for accuracy against the need to pay benefits in a timely fashion.

Since 1987, the Department has required States to investigate a small but statistically valid sample of UI payments each week. These investigations determine whether the individual beneficiary met all State requirements for eligibility such as being able to work, available for work, and searching for work during the week being examined. The data resulting from these investigations are used to estimate the total level of improper payments in each State. Some improper payments, for example, those resulting from failure to make a certain number of job search contacts, can be found by these lengthy investigations but are not cost effective to detect on an operational basis. These "benefit accuracy measurement" data are used by the States and the Department to determine the causes of payment errors and points in the claims process where errors occur.

Reducing improper UI payments is a major focus of the Department. The number one cause of overpayments is individuals who are working and claiming benefits at the same time—about one quarter of all overpayments. Other top causes are incorrect eligibility decisions by the State agency (sometimes due to lack of information from employers) and beneficiaries' failure to meet weekly work search requirements.

Prevention and early detection of overpayments are essential. The sooner a State finds out about an improper payment, the sooner it can cut off benefits and start the collection process. The Department has undertaken a number of initiatives to help States reduce improper payments of UI benefits. In March 2004, the Department entered into an agreement with the Social Security Administration to exchange data. This agreement enables State UI agencies to crossmatch UI claims information against social security records to verify a claimant's name, social security number, age, and amount of any pension received. This helps prevent UI payments to persons working under stolen social security numbers and helps determine the correct benefit amount for individuals receiving pensions. The Department provided funds to 39 States to implement this data exchange, and 29 States have already begun this crossmatch.

The Department has funded States to use data in the State Directories of New Hires (SDNH) to detect and prevent improper payments to beneficiaries who continue to collect despite having returned to work. Forty-two States are currently using the SDNH crossmatch for UI purposes. By enabling the States to learn about beneficiaries who still collect while working, the SDNH crossmatch is estimated to have saved at least \$150 million over the last two calendar years.

State UI agencies were recently granted access to the National Directory of New Hires (NDNH), which promises to be even more helpful in reducing this type of overpayment as it is a more comprehensive database than the SDNH. The NDNH allows States access to a wider universe of employers, including Federal agencies and multi-state employers who report all of their new hires to a single State. The Department provided States with funds to implement crossmatches with the NDNH. We expect 29 States to be using the NDNH crossmatch by the end of this fiscal year.

We are also pursuing new initiatives to promote UI payment integrity. As an important part of the Department's continuing commitment to reducing improper UI payments, the FY 2007 budget includes a set of legislative proposals and funding requests that would help States deter, detect, and collect UI overpayments. The following legislative proposals would give States access to new funding sources for paying costs of benefit payment control (BPC) activities—that is for preventing, detecting, and recovering UI overpayments.

***Allow States to use a percentage of all recovered overpayments for BPC activities.***

Under current Federal law, all overpayments collected by a State must be deposited in the State's unemployment fund where they may be used only for the payment of UI benefits. The Department proposes to amend Federal law to *permit* States to use up to 5% of all overpayments recovered to augment administrative funding for BPC activities.

***Require States to impose at least a 15% penalty on fraud overpayments.*** Currently, all States impose penalties on employers who are delinquent in paying contributions. It makes sense to require States to impose a similar fine on individuals who have defrauded the system. Under this proposal, Federal law would be amended to *require* States to impose a penalty of not less than 15% on fraud overpayments and to use these penalties only for BPC activities.

***Allow States to permit collection agencies to retain a percentage of fraud overpayments recovered.*** Several States have explored using private collection agencies to collect certain overpayments. One of the problems States have encountered is finding a way to pay the private agency's costs of collection, which can be up to 25% of the amount collected. To overcome this barrier to collections, Federal law would be amended to *permit* up to 25% of any amount collected by the collection agency on fraud overpayments to be retained by that agency. This would be permitted only when the State UI agency has (1) made its own collection efforts, (2)

declared the amount uncollectible, and (3) one year has elapsed since the debt was established. Thus, the proposal only applies to hard-to-collect fraud debt that would not otherwise be collected.

In addition, we would like to see the following legislative amendments to support the Department's integrity activities by providing States with new tools to identify and recover overpayments:

***Require employers to report "start work date" to the Directory of New Hires.*** State UI agencies have found directories of new hires to be extremely useful in identifying individuals who fraudulently claim UI benefits after they have returned to work. However, the effectiveness of these data is limited because not all employers report the date when an individual started work. Following the Office of Inspector General (OIG) recommendation, the Department proposes amending Federal law to require employers to report a new hire's first day of earnings (work) to the directory of new hires.

***Authorize the U.S. Department of the Treasury to intercept Federal income tax refunds for certain UI purposes.*** This proposal would authorize the U.S. Department of the Treasury to recover overpayments of UI benefits paid by State agencies through offset from an individual's Federal income tax refunds via the Treasury Offset Program (TOP)—a government-wide debt matching and payment offset system that matches delinquent debts owed to various government agencies to Federal income tax refunds. This amendment would increase overpayment recoveries thereby contributing to the solvency of State accounts in the Unemployment Trust Fund and lower employer taxes.

Together, these legislative proposals—along with a few complementary proposals to collect delinquent employer taxes and augment tax integrity activities—would reduce

overpayments and increase overpayment recoveries by roughly \$2.2 billion over 5 years and \$5.0 billion over 10 years.

***Combatting identity theft.*** The President's FY 2007 budget requests \$10 million to prevent and detect fraudulent UI claims filed using personal information stolen from unsuspecting workers. As most unemployment claims are now filed by telephone or the Internet—a convenience for unemployed workers and an efficiency for States—new opportunities for schemes to obtain benefits fraudulently have been created. The Department's OIG has cited identity theft schemes in the UI program as a top management challenge since they are now being conducted by “nontraditional organized crime groups” and result in “more costly, complex, and far reaching” fraud schemes than previously seen within the UI program. The OIG reported that two schemes, one involving four States, were responsible for over \$11 million in fraudulent payments. The proposed safeguards would more than pay for themselves as these activities are expected to prevent an estimated \$77 million in overpayments.

***Reemployment and Eligibility Assessments (REAs).*** A number of studies found that attention to eligibility and reemployment service needs assessments resulted in relatively shorter periods of benefit receipt by speeding reemployment and reducing overpayments. In FY 2005, the Department began the REA initiative by giving about \$17 million to 21 States to review the eligibility of beneficiaries and provide job search assistance in person. In the current fiscal year, the Department will be providing these States with additional resources to continue their efforts. The FY 2007 budget requests \$30 million to expand the scope of this initiative to include more States. It is estimated that this \$30 million expansion of current REA efforts would reap as much as \$151 million.



In closing, I would like to say that while the Department of Labor was one of the first cabinet-level agencies to receive a “green” rating under the President’s Management Agenda for eliminating improper payments, we recognize that there is no finish line to this endeavor. We are acutely aware that we must continually refine our efforts to ensure that the funds entrusted to our stewardship go to their intended purpose while exercising the greatest diligence to ensure that improper payments are not made.