Testimony of

Anna Hui

Director

Missouri Department of Labor & Industrial Relations

"Lessons from Pandemic Unemployment: Fraud Prevention is Achievable through Modernization Funding"

United States House of Representatives

Ways and Means

Work & Welfare Subcommittee

February 6, 2025

Anna Hui
Director
Missouri Department of Labor and Industrial Relations

Chairman Lahood, Ranking Member Davis, and distinguished committee members, thank you for the opportunity to speak with you today about the lessons learned from the economic challenge the COVID-19 pandemic placed upon the American people and the delivery of services to help them meet those challenges. Those specific challenges relate to the unprecedented speed with which new unemployment programs were created and implemented, the generous benefits that often dwarfed the income recipients earned before the pandemic, the lax eligibility verification and validation standards for some programs, the subsequent fraud perpetrated that took advantage of the American people's generosity, and a viable path for fraud prevention for the future.

My name is Anna Hui. For nearly 30 years, I have worked in the labor and employment law and public policy arena. In President George W. Bush's administration, I served as Associate Deputy of Labor under Secretary Elaine L. Chao, and since 2017, I have led the Missouri Department of Labor and Industrial Relations as Director. Active with several national associations, I previously served as President of the National Association of Government Labor Officials (NAGLO) as well as Board President of the National Association of State Workforce Agencies (NASWA), and as a Steering Committee member for NASWA's Unemployment Insurance Information Technology Support Center (UI ITSC). I currently serve as NASWA Board Secretary. Today, I am here to share about Missouri's experience at our Department's Division of Employment Security, the agency that administered the federal unemployment programs throughout the pandemic and administers our state's Unemployment Insurance (UI) program.

The Landscape Before Pandemic Unemployment

A program established by the federal government as part of the 1935 Social Security Act, administered by the states for decades, the regular Unemployment Insurance program provides limited duration partial income replacement to an individual who lost his or her job due to no fault of their own. It is intended to assist individuals in meeting the basic necessities of life and serves to motivate and enable the individual to return to gainful employment. In Missouri, an eligible individual generally can receive a maximum of $320 per week for up to 20 weeks, totaling $6,400 for a benefit year.

The Missouri UI program and benefits paid to recipients are 100 percent funded by employers through an employer tax. As such, UI is structured and operates as an insurance program with inherent checks and balances that prevent and limit improper payments and fraud, including large-scale fraud schemes. Each claim includes a 10-day protest period in which the impacted employers are notified of the claim and are provided an opportunity for the employer to protest the claim. For most employers in Missouri, valid claims are charged against their employer account, impacting the calculation of their future UI tax rate, not unlike your automobile insurance increasing if you have valid at-fault claims against your policy. Conversely, if an employer has few valid claims against their account, their UI tax rate can decrease. In Missouri, an employer could earn a zero percent UI tax rate if their taxes paid in are consistently higher than benefits paid out over time. As such, employers are incentivized to protect the integrity of their accounts and protest any potentially invalid claim.

To receive UI benefit payments, a worker must meet certain earnings requirements from wages paid by an insured employer, lose his or her job through no fault of their own, and meet various other eligibility criteria, such as being able to work, available to work, and actively seeking work each week. Workers deemed eligible must file a claim each week and certify that they are able and available to work to receive payment. Additionally, benefit recipients must complete and log work searches for every week claimed. Due to the partial nature of the income replacement provided in regular UI, limited duration of benefits, and work search requirements, eligible workers are incentivized to return to work. The average duration of benefit recipiency in Missouri is approximately 12-13 weeks. Due to the established eligibility requirements for claim entitlement, workers who are not eligible under the UI program do not receive benefits and are likely to return to work more quickly.

Owing to these inherent controls, pre-pandemic fraud in the UI program was limited to individualized attempts to defraud the program. The duration of the schemes, as well as the amount of money that could be paid out, was also limited due to internal/external controls and data crossmatches designed to detect and prevent fraud and in use for years. An example of pre-pandemic fraud in the UI program is someone who continues to file weekly unemployment claims for a few weeks after returning to work, answering “no” when asked if the individual performed any work during the week. Due to state and federal requirements for employers to report new hires, this scheme is short-lived as the agency is notified through data crossmatches. In this scenario, the weeks claimed and paid are subsequently denied, and an overpayment is established with a fraud penalty. The individual is required to repay the amount subject to enforceable collection if not repaid voluntarily. Individuals who are determined ineligible for the UI program due to insufficient or no earnings from an insured employer do not receive benefits; therefore, such individuals as the self-employees' claims would rarely result in an overpayment. This is not intended to be a comprehensive review of all facets of the UI program but rather provide a glimpse of how the program generally operates when considering the challenge that federal pandemic programs created.

Administrative funding also played a critical role in the state's ability to respond as programs and benefits were created and implemented with unprecedented speed. At the time the pandemic hit, Missouri was experiencing a multi-decade low in unemployment and, consequently, a low claims volume, a key factor of compensable work activities for program funding allocation, was also at multi-decade lows. Thus, appropriations for the UI program and allocations to Missouri prior to the pandemic had been declining for some time. In response, as I am sure was the case for many other states, Missouri, through attrition, was decreasing staffing levels to align with available administrative funds. In short, Missouri DES was extremely lean leading into March of 2020.

Fortunately, Missouri committed to operating its UI program efficiently and effectively despite fiscal challenges. As a result, it created a dedicated UI modernization fund through statute and replaced its 45+-year-old mainframe computer legacy application in November 2016 with a modern system, UInteract. Missouri had already deployed advanced identity proofing tools for claim filing and was able to expand its fraud prevention toolset further in the new application. In addition, Missouri was an active partner in NASWA with the UI Integrity Center and its Integrity Data Hub (IDH). While we entered the pandemic critically understaffed when compared to the historic surge in unemployment claim volume, Missouri DES entered it with a technology solution that was scalable, easily modified, and supported robust self-service, anti-fraud, and enhanced data analysis capabilities. Additionally, Missouri retained expert technical resources on-site since the implementation of its application, adept in programming changes and enhancements specifically for the Missouri system. This meant that Missouri was in a relatively good position from a technical perspective to meet the challenges imposed by COVID-19 and the new federal pandemic unemployment programs and requirements.

A New Era - Federal Pandemic Unemployment Programs

As signed into law, the Coronavirus Aid, Relief and Economic Security Act of 2020 (CARES Act) ushered in a bevy of new federal pandemic unemployment programs to respond to the overwhelming public need and economic impact of so many American citizens unable to work. Unlike traditional economic downturns faced, and for which the UI program was designed, and trend models can project, pandemic unemployment was immediate, unforeseen, and could not be reasonably prepared for.

Unemployment claims in Missouri, as in all states, skyrocketed. In the span of only two weeks in March 2020, initial claims received in Missouri went from approximately 2,900 to 104,000 -- an increase of nearly 3,500 percent, consistent with national averages of approximately 3,000 percent. The speed of the federal program creation and states' implementations, as well as updated federal program guidance and/or executive or legislative action, resulted in frequent updates for program administration, often requiring changes to be implemented retroactively and applied to prior filed claims. In addition, the claim numbers mentioned do not account for the additional work required to apply changing guidance and interpretation retroactively. As mentioned previously, most states entered the pandemic at funding and staffing lows, and many supported their programs with antiquated legacy computer technologies, some of which were decades old.

Critical to this discussion was the generous inclusion of a $600 Federal Pandemic Unemployment Compensation (FPUC) supplemental benefit to be paid in addition to the underlying program benefit. For example, the maximum weekly benefit in Missouri for regular UI is $320; under the CARES Act, an individual eligible for the maximum benefit initially received $920 per week, including the $600 supplemental benefit. A benefit duration of 20 weeks for regular UI, confined by the benefit year, would grow to as many as 79 weeks over the course of the pandemic program performance periods, depending on the various programs one could be eligible for. Many citizens could receive benefits through the program that far exceeded what they could earn in employment, creating a substantial disincentive to return to work. A national study published in August 2020 by the

University of Chicago, entitled ***US Unemployment Insurance Replacement Rates During the Pandemic,*** states,

> "The median percentage of salary replaced by Unemployment during the pandemic was 145%. It was more than 200% for workers in the bottom 20% of the US income spectrum and more than 300% for workers in the bottom 10%. This compares with a typical pre-CARES Act salary replacement rate of 40-50 percent of lost income."

States were encouraged and incentivized to waive work search requirements and employer charging, which are foundational aspects of the regular UI program. These requirements foster and encourage a return to work and incentivize an employer to contest invalid claims to protect against an adverse impact on the employer's UI tax rate, a control that helps limit improper payments.

Additionally, the CARES Act established the Pandemic Unemployment Assistance (PUA) program specifically for those workers not insured by regular UI, primarily the self-employed or otherwise uninsured. Individuals were eligible to receive the maximum weekly benefit amount and any supplemental payment that existed for the weeks of eligibility. For the first nine months of the program, claimants could qualify solely based on self-attesting to one of several qualifying conditions, and states were required to backdate the claim to the beginning of the Pandemic Assistance Period. Unemployment Insurance Program Letter (UIPL) 16-20 Change 1, in accordance with the law as written, specifically states, "an individual filing for PUA does not need to provide proof of employment or self-employment to qualify." Unlike regular UI, since PUA primarily served the self-employed, there are no earnings from an insured employer, thus no inherent control as in the regular UI program, where an employer is incentivized to protest the validity of a claim. Given the size of the weekly payment that could be received under PUA and the self-employed worker's total control over whether they returned to work, there was little to no incentive to work.

More importantly, in consideration of the amount of money that could be received across the entirety of the programs offered and the increasing prevalence of identity theft over the last several years, lax qualification and eligibility requirements, and initial nearly non-existent verification and validation requirements, federal pandemic unemployment programs, primarily PUA, became an irresistible target for localized, national, and even international fraudsters and fraud rings. Unlike the limited fraud schemes prior to the pandemic, the PUA program ushered in new opportunities for non-localized bad actors, including large-scale crime syndicates, to take advantage of the generosity of the American people in a time of crisis.

Prevention of Fraud, Small & Large is Achievable – Pairing of People, Technologies & Data

Traditionally, bad actors launch large scale fraud attacks against state UI programs during times of economic downturns or other crisis, when claim workloads have increased, additional unemployment benefits are available, and national and local pressure is on states to pay benefits as quickly as possible. Amid this environment and its many challenges, Missouri successfully navigated and avoided the large-scale fraud schemes perpetrated by criminal fraud rings. This was the result of many factors, primarily to having a stable modern UI application and fraud prevention tools in advance of the pandemic, paired with strong leadership, expert administrative staff supported by a team of technology experts, and a partnership with NASWA UI Integrity Center. As a team, we were able to analyze data, modify controls, flag suspicious activity for internal review, and adjust the application controls and flags to respond holistically to identified schemes and suspicious actors in real time and at scale. The Missouri team was effectively training and adapting the application and tools to constantly improve its ability to detect and deter fraudulent activity. Existing fraud prevention tools paired with the application were instrumental in detecting suspicious claim activity, preventing bot attacks, and denying fraudulent claim filing and subsequent errant payments. Missouri's partnership with key leaders in the private sector fraud prevention space was critical as the team worked tirelessly to adjust and modify the tool sets and add additional features to stay ahead of trends.

Missouri benefited from these solutions while maintaining multiple avenues for individuals to verify their identity and gain access to benefits they were eligible for. If an individual encountered an identity proofing issue, he or she was given the opportunity to provide proof and, if sufficient, advance his or her claim. If further suspicious activity was detected and/or he or she failed identity proofing, the individual was required to report in person at one of Missouri's Job Centers. From 2020-2022, Missouri stopped nearly 10,000 completed claims due to failed identity proofing and failure to report in person. It generally is accepted that the number of bad actors that likely abandoned claim filing upon encountering robust ID proofing requirements was much greater.

Stopping UI fraud is not impossible, but extending the statute of limitations for CARES Act-related UI fraud and overpayment recovery is crucial. The current deadline of March 27, 2025, looms large. Without an extension, prosecutions will be impossible after that date, allowing criminals to escape justice, and potentially leaving billions of dollars in overpayments due to fraud unrecovered. This is unacceptable. Beyond extending the statute of limitations, broader UI program reforms are essential, as proposed in H.R. 1163 – the "Protecting Taxpayers and Victims of Unemployment Fraud Act." We must move away from the "pay and chase" model, which is inherently vulnerable to fraud, and implement more robust preventative measures.

Insufficiency of UI Program Funding to Prepare for Economic Downturn and Prevent Fraud

Administrative funding provided by the USDOL to states is apportioned from the amount appropriated for the program's administration using an overly complicated and antiquated Resource Justification Model. This model defines the work activities for which a state's effort (calculated in minutes per unit per activity) is used to determine total minutes per activity for the state. This calculation factors into the amount of funding the state receives to perform that function in the succeeding year. The total across all activities comprises most of a state's UI administrative funding to operate the program. Depending on available appropriated dollars, the USDOL may reserve some funds for issuing Supplemental Budget Requests (SBR) with specific requirements a state must adhere to or achieve to qualify for the funding.

Based on this model, UI administrative funding always lags behind the reality of the economic environment in which it operates. In times of low unemployment (low workloads), state agencies receive less funding, making it difficult to respond to increased workloads when an economic downturn occurs. In times of high unemployment, the lagging increase in funding received is consumed primarily by increased staffing to address individuals' service needs and can also be leveraged for technology improvements to address demand. Any unexpended "above-base" funding must be spent on UI technology and automation improvements. However, such funding is often insufficient to meet the needs of an ever-changing, dynamic technological landscape holistically. These “above-base” funds have a relatively short window before they expire, making states leery to use such funds for any automation effort that results in ongoing costs such as licensing, maintenance, and support. Increasing the time states have to make use of such funds to a minimum of three years would be beneficial. In short, the Resource Justification funding model to administer the UI program makes it nearly impossible to implement and maintain the technical solutions necessary to operate the program effectively and efficiently. To do so requires robust safeguards and fraud prevention tools to combat sophisticated and ever-changing fraud schemes.

According to an objective third-party study released in January 2025 performed by Abt Global, Inc., and Needels Consulting, contracted by the USDOL entitled, ***Unemployment Insurance Administrative Funding and Costs: A Literature Review***, “The inflation-adjusted decline in administrative funding in recent years has been about 27%.” Additionally, the 2025 legislative priorities published by NASWA, a bipartisan organization representing all 50 states, DC and US territories, states, in part, “Since 2009, funding levels have never met need as demonstrated by budget documents submitted through the Resource Justification Model.” In 2023, Missouri businesses paid approximately $130 million in Federal Unemployment Tax Act (FUTA) taxes to the U.S. Treasury, yet Missouri only received $38.5 million in UI program administrative funding from the USDOL. The current administrative funding model often penalizes efficient states. Its heavy reliance on workload as a means to distribute funds can serve as a deterrent for states to pursue transformative efficiencies.

As a result, NASWA outlines two priorities for information technology investment to support effective and efficient UI program operations:

(1) Invest in and provide for ongoing maintenance and support, based on state need, for the digital transformation of UI systems that are flexible, scalable, and resilient, including funding and support for staffing, digital equity, customer experience, and emerging technologies.

(2) Funding for information technology and modernization should be recurring, distinct, and separate from general UI administrative funding, should be adequate, and should not reduce overall administrative funding.

Due to inadequate and inconsistent funding, it is near impossible for a state to project and make strategic and long-term decisions related to UI program administration and investment in a sustainable technology infrastructure – one that can both scale to meet fluctuating volumes and citizen needs and provide for robust system security and program integrity. To succeed, states must find ways to augment existing funds with more stable sources to implement transformative modernization within their UI programs and then, fund ongoing maintenance and support. Due to insufficient federal administrative funding, the Missouri General Assembly enacted legislation to create an UI automation fund as the primary source to fund the implementation of our modernized UI application and toolsets. The Assembly reinstated the fund through legislation to address the ongoing maintenance, support and enhancement costs required to ensure the UI IT infrastructure investment remains relevant and secure.

Conclusion

With the advent of advanced technologies such as Artificial Intelligence, the landscape is constantly changing at an ever rapidly increasing rate providing opportunities for our programs, but also for bad actors armed with access to personally identifiable information of tens of millions of individuals from one of the many data breaches we have all read about. Combatting the constant threat, securing our citizens' access to this economically vital program and essential benefits, and staying ahead of the onslaught of malicious attacks is imperative. It requires expert program and technical staff resources, modern and advanced technology solutions, but also consistent and reliable funding. Like the environment before the pandemic, we have seen a return to low insured unemployment rates within our state and across the nation. Now is the time to prepare and ensure states are equipped with the resources to employ and maintain the solutions that were found to be critical to providing essential program services and program security and integrity. Missouri is confident and knows from experience that both goals, citizen service and robust security, with the right partnerships and funding, can be accomplished.

I thank Committee Chairman Smith, Ranking Member Neal, Subcommittee Chairman LaHood, Subcommittee Ranking Member Davis, and other distinguished members of the Subcommittee for the opportunity to testify. I look forward to your questions.