



UNITED COUNCIL^{ON} WELFARE FRAUD

**RESPONSE TO REQUEST FOR INFORMATION ON SOLUTIONS
TO REDUCE GOVERNMENT IMPROPER PAYMENTS**

UNITED STATES HOUSE OF REPRESENTATIVES

HOUSE BUDGET COMMITTEE

OVERSIGHT AND ACCOUNTABILITY COMMITTEE

IMPROPER PAYMENTS WORKING GROUP

SEPTEMBER 29, 2023

The United Council on Welfare Fraud appreciates the invitation and opportunity to provide comments to the House Budget Committee and House Oversight and Accountability Committee on its request for information (RFI) on Reducing Government Improper Payments.

For context, the United Council on Welfare Fraud (UCOWF) is the only national professional membership association dedicated to combatting waste, fraud, and abuse in our nation's public assistance programs for the last fifty years. We are the only national organization singularly focused on the detection, prevention, prosecution, and recovery of welfare fraud. We provide annual training on program integrity best practices, fraud trends, and provide eligible members with the only professional certification in our field. More information about us can be found on our website, www.ucowf.net.¹

Our membership spans local, state, federal, and territory agencies responsible for public assistance programs, including Supplemental Nutrition Assistance Program (SNAP aka 'food stamps'), Temporary Assistance to Needy Families (TANF), Medicaid, Subsidized Child Care, and Low-income and Subsidized Housing, to name a few. In these social service programs, improper payments can be broken into two categories; payments made by agencies as a result of error, and fraud.

The best way to address improper payments is to take appropriate actions at the front-end, prior to issuing payments/benefits, to ensure proper stewardship of taxpayer money is going to the right individual and in the right amount.

Our immediate Past-President, Andrew Petitt, issued a statement on behalf of UCOWF on July 7, 2023, and expressed our concern with the SNAP FY 2022 Payment Error Rate (PER) that the U.S. Department of Agriculture (USDA) had released. We believed it was vital to express our concern with the 11.54 percent national PER and the fact that those errors cost SNAP more than \$1 billion per month in unrecovered overpayments. We were disappointed to see the FY 2022 error rates, but we are not surprised given the extensive fraud our members are facing on a daily basis.

On September 19, 2023, the USDA issued a Request for Information, *Provisions to Improve the Supplemental Nutrition Assistance Program's Quality Control System*; we are in the process of digesting that document and we will submit a timely response. However, our preliminary response is one of frustration as USDA appears to be removing integrity mechanisms, such as mandatory compliance with quality control interviews, to mitigate/obfuscate the number of errors.²

¹ Additional pertinent information relating to improper payments was provided as official testimony to the House Agriculture Committee on June 7, 2023:

https://www.ucowf.net/assets/pdf/Dawn+Royal_UCOWF_Testimony+for+House+Agriculture_7June2023_FINAL/

² <https://www.govinfo.gov/content/pkg/FR-2023-07-19/pdf/2023-15209.pdf>

Our subject matter expertise is with the second cause of improper payments, fraud. We continue to be appalled that USDA currently spends less than 1/20 of one percent of the SNAP budget on the detection, prevention, and prosecution of fraud. The question of how much fraud is a topic of much discussion and debate. FNS contends fraud rates of less than 1% and holds the program as a model of federal excellence. Anyone, including the public, can clearly see the numbers don't add up. It is a matter of debate even amongst UCOWF members across the nation with rates ranging from 8% to 40% of all households currently enrolled. One thing is clear – the fraud rate varies from County to County, State to State... but the numbers being bantered about by USDA FNS amount to nothing short of gaslighting.³

SNAP FRAUD OCCURS IN THREE WAYS

- **ELIGIBILITY FRAUD** – Eligibility fraud is when an applicant provides false or incomplete information to obtain SNAP benefits for which they are ineligible. This occurs in both recipients and retailers. Primary drivers are self-attestation and accepting client statements on household composition, income, and residency.
- **IDENTITY FRAUD** – The food assistance program, much like tax-refund fraud and unemployment insurance fraud exposed during the Pandemic Health Emergency, is targeted by both domestic and international fraudsters. With data breaches and the growing global modernization of foreign states and the proliferation of stolen Personal Identification Information (PII), SNAP now stands alone as the largest federal program with antiquated or non-existent anti-fraud measures. Unfortunately, these identity theft attacks occur in both recipient and retailers. This includes synthetic identity fraud, skimming of Electronic Benefit Transaction (EBT), and account takeover – which results in the loss of benefits for real legitimate SNAP recipients.
- **TRAFFICKING** – The exchange of SNAP benefits for anything other than eligible food items is referred to as trafficking. The most common example of this is when a recipient exchanges SNAP benefits for cash at a dishonest retailer. UCOWF members have also seen benefits trafficked for rent, firearms, narcotics, and human trafficking – and while those incidents may be uncommon, no instances are acceptable.

We offer some suggestions that span all five areas of interest to the Improper Payments Working Group that will give immediate and substantial assistance to combat the ever-increasing occurrences of fraud and improper payment that have become so prevalent in social service programs:

³ A funded independent study found that every dollar of fraud actually costs agencies up to \$4.05.
<https://risk.lexisnexis.com/insights-resources/research/2023-true-cost-of-fraud-for-snap-and-ies-agencies>

INCENTIVIZE STATE AND COUNTY AGENCIES ADMINISTERING FEDERAL PROGRAMS

No incentive currently exists for agencies administering federal programs to detect and prevent fraud.⁴ The only enticement to recovering improper payments exists in state agency ability to retain a portion of recoveries (commonly known as, “pay and chase”). This method of improper payment recovery is not only inefficient but has failed to bring improper payments under control. GAO and current stewardship efforts have existed for decades. Yet as we saw during COVID, government agencies are still woefully equipped to address improper payments.

States retain either 20% (Inadvertent Household Errors/ Unproven Fraud) or 35% (Intentional Program Violation/fraud proven at administrative or criminal proceedings). Prior Farm Bills reduced this amount from 50% retained share of recoveries.⁵ Unfortunately, there are no mandates that require agencies reinvest their State share of recoveries into program integrity; and few do.⁶

In addition, federal funding fails to prioritize improper payment controls. For example, the USDA Food and Nutrition Service anti-fraud efforts are cataloged in their SNAP Fraud Framework annual grants. Yet these grant opportunities are only funded for the entire nation at \$5M annually – and capped at \$750K. In a program responsible for addressing hunger in this nation, anti-fraud appropriations are woefully deficient at .005%.⁷

ELIMINATE DUPLICATE PARTICIPATION

One of the easiest methods to address improper payments is the elimination of duplicate participation. UCOWF provided testimony on one tool that nearly eliminated duplicate participation in SNAP, the National Accuracy Clearinghouse.⁸ Expanding the original intent of Congress (as reflected in the 2018 Farm Bill) to other programs is an example of a commonsense solution that would reduce improper payments.

⁴ Government Accountability Office #14-641: <https://www.gao.gov/products/gao-14-641>

⁵ <https://docs.house.gov/meetings/AG/AG00/20230607/116052/HHRG-118-AG00-Wstate-RoyalD-20230607.pdf>,

⁶ Historically, the State retention rates have changed several times. Prior to October 1, 1990, IPV retention was 50%. Afterwards and until September 30, 1995, the rate was reduced to 25%. The rate was changed back to 50% until January 1, 2001, when the 35% rate was established. Some States reinvest the retained percentage of collections into their integrity programs; however, FNS does not provide guidance or mandates for States to do so. This results in the recoveries (State revenue) being diverted to pay for competing priorities and not reinvested back into program integrity initiatives, similar to guidance on the use of SNAP QC performance bonuses (Section 4021).

⁷ SNAP-Education receives more money, half a billion dollars, at 100% Federal funding; yet State program integrity efforts receive no earmarks and require 50/50 State matching from FNS.

⁸ <https://docs.house.gov/meetings/AG/AG00/20230607/116052/HHRG-118-AG00-Wstate-RoyalD-20230607.pdf>, pages 6-7.

PROVIDE CONSISTENT MESSAGING ACROSS GOVERNMENT PROGRAMS

In October 2022, the Centers for Medicare & Medicaid Services issued guidance to States on Unwinding.⁹ Guidance relating to Question 31 of the document preempted state laws:

Fraud & Abuse/Recoupment

Q31: Can a state recover or recoup the cost of services from a beneficiary who committed Medicaid fraud or abuse?

A: No. States cannot recover or recoup the cost of services from a beneficiary, even if they have been found after an administrative or criminal proceeding to have committed Medicaid beneficiary fraud or abuse. States must continue furnishing Medicaid to all beneficiaries until they are determined ineligible per 42 CFR § 435.930(b), and such recovery or recoupment would effectively represent a retroactive termination of Medicaid eligibility, which would violate a beneficiary's due process rights under section 1902(a)(3) of the Act, 42 CFR part 431 subpart E, and relevant Supreme Court due process jurisprudence (*see* *Goldberg v. Kelly*, 397 U.S. 254 (1970) and its progeny).

The only circumstances under which a state may recover funds from a beneficiary are those explicitly provided for in federal statute and regulation. These include: (1) liens placed on a beneficiary's property when a court judgment finds that Medicaid benefits were improperly paid under section 1917(a) of the Act and 42 CFR § 433.36(g)(1); (2) estate recovery proceedings required under section 1917(b)(1) of the Act; and (3) benefits provided pending the outcome of a fair hearing under 42 CFR § 431.230 (except that benefits provided pending the outcome of a fair hearing during the PHE may not be recouped, and states that do so risk losing enhanced match claimed pursuant to section 6008 of the FFCRA; *see* footnote 9 in the March 2022 SHO Letter # 22-001).

As a result of this guidance, few agencies took action to recover improper payments or fraud, even if it occurred prior to the Pandemic Health Emergency or was due to an enrollee's error (such as failing to report income that would have resulted in ineligibility for benefits).¹⁰ The issue impacting improper payments becomes exasperated when program policy staff are able to waive Federal law or bypass Congress.

Another issue gaining momentum was California passing a state law expanding Medicaid to illegal immigrants and to waive/disregard asset checks required by the Social Security Act.^{11 12} These policy decisions that shift the burden to taxpayers from other states should not be allowed, and stringent oversight is required – we should all agree, millionaires should not be on Medicaid.¹³ We would include examples like these as “waste” and part of the improper payment problems continually plaguing government programs.

⁹ <https://www.medicaid.gov/sites/default/files/2022-10/covid-19-unwinding-faqs-oct-2022.pdf>

¹⁰ https://www.dhs.state.mn.us/main/idcplg?IdcService=GET_FILE&RevisionSelectionMethod=LatestReleased&Renderition=Primary&allowInterrupt=1&noSaveAs=1&dDocName=mndhs-063101

¹¹ <https://icaliforniamedical.com/medi-cal-for-immigrants-in-california/>

¹² <https://www.dhcs.ca.gov/provgovpart/Documents/CalAIM-Asset-Test-Amendment-Approval.pdf>

¹³ <https://thehill.com/opinion/healthcare/4138033-this-is-reform-california-wants-to-let-its-billionaires-go-on-medicaid/>

KNOW YOUR CUSTOMER

Uniform standards on individual and business entity identity verification and authentication measures would create a standard that all agencies could follow. Considering advancements in Artificial Intelligence “deep fakes” and studies showing potential bias, we do not feel that facial recognition is the answer. The public clearly was not ready to embrace this technology when the IRS used a service that collected user selfies.¹⁴ Several government programs severely impacted by improper payments during COVID have yet to enact industry best-practices and are hampered by antiquated rules and regulations. For example, all that is required to apply for SNAP is an individual’s name, address, and signature.¹⁵ As such, USDA FNS guidance to states was to mandate applicants could opt-out of online identity verifications. This has, undoubtedly, resulted in fraud (a major driver of improper payments).¹⁶

REQUIRE AGENCY DATA VERIFICATIONS / STOP SELF-ATTESTATION

Self-attestation was the disease that infected the entire Department of Labor’s Pandemic Unemployment Assistance and Small Business Administration’s Paycheck Protection Program.¹⁷ Over \$380 billion in improper payments could have been prevented had basic data verifications been done on applicant statements. To put that in perspective, if you went back one second for every improper payment dollar lost in just these two programs, you would be back in the year 14,065 B.C.; the middle of the last Ice Age and prior to homo-sapiens crossing Bering Land Bridge from Siberia to North America.¹⁸

Every government program should be required to verify applicant statements when possible, including the authenticity of documents.¹⁹ A common fraud tactic used by identity thieves is to upload a photoshopped driver’s license for identity verification. Federal, state, and local agencies are not verifying the authenticity of those documents. Additional data verifications should include:

- Do Not Pay Registry
- Incarceration
- Liquid Asset Verifications
- Full SSA Death Master File
- Income Verifications
- Social Security Number Validation

¹⁴ <https://arstechnica.com/tech-policy/2022/02/irs-stops-requiring-selfies-after-facial-recognition-system-is-widely-panned/>

¹⁵ [https://www.ecfr.gov/current/title-7/subtitle-B/chapter-II/subchapter-C/part-273#p-273.2\(b\)\(1\)\(v\)](https://www.ecfr.gov/current/title-7/subtitle-B/chapter-II/subchapter-C/part-273#p-273.2(b)(1)(v))

¹⁶ <https://www.fns.usda.gov/snap/identity-authentication-pilot-projects>

¹⁷ See US DOL OIG Audit issued September 27, 2023: “[Covid-19: Pandemic Unemployment Assistance for Non-Traditional Claimants Weakened by Billions in Overpayments, Including Fraud](#)”

¹⁸ <https://datetimecalculator.net/seconds-ago-calculator>

¹⁹ <https://www.pandemicoversight.gov/news/articles/self-certification-procedures-may-increase-fraud-risk-pandemic-response-programs>

- Citizenship Status
- Contact/ Email Verifications
- Duplicate Participation
- IRS Wage and Income
- Business License Status
- Residency Verifications
- Administrative Disqualification Checks
- Cross-Program Participation Checks
- Bank Account Verification
- Transaction origination

Not all agencies do even basic validations. For example, the USDA FNS is responsible for vetting and approving authorizations to become a SNAP retailer. Yet FNS accepts retailer statements, does not validate provided authentication, and even lacks the authority to vet Social Security Numbers. In a January 2017 USDA OIG report, 3,394 stores were found to have deceased owners and 193 retailers approved using PII for minors (under 18 years old). FNS addressed this barrier, stating, “*FNS recognizes the value in conducting a DMF match on an on-going basis. As such, should FNS be granted future authority to use SSN for matching purposes, FNS will match to the SSA DMF using SSN on an on-going basis.*”²⁰ To date, FNS does not verify retailer submitted SSNs nor match against the SSA DMF due to this statutory restriction. Fixing this would require modification to the Social Security Act.²¹

Data verifications should focus on the identity of the individual/business, eligibility factors, and transaction origination. Had this occurred during the PHE, money would not have been sent overseas to transnational organized crime, terrorists, or nation-states in what has become the worlds largest fraud in world history.²²

An example of the impact on legitimate, needy citizens is the current epidemic of Account Take-Over. Lumped under the guise of “EBT Skimming,” real hungry and needy SNAP, TANF, and WIC recipients are having their EBT benefits highjacked by identity fraudsters. This occurs due to the lack of identity verification and data verifications for individuals accessing customer call centers and online client portals. The prevalence of scripted bot-attacks conducting balance inquiries using common PIN numbers has resulted in thousands of recipients without the benefits they were expecting. While legislation was put in place instructing two free refills of lost benefits, nothing has been done to prevent it.²³

²⁰ <https://usdaoig.oversight.gov/sites/default/files/reports/2023-06/27901-0002-13.pdf>

²¹ Section 205(c)(2)(C)(iii)(I) of the Social Security Act (codified at 42 U.S.C. §405(c)(2)(C)(iii)(I) and implemented at 7 C.F.R. §278.1(q)(3))

²² <https://www.rollingstone.com/politics/politics-features/covid-relief-scam-fraud-money-billions-1234784448/>

²³ <https://calmatters.org/california-divide/2023/01/calfresh-calworks-thefts/>

STAFFING MINIMUMS

The UCOWF has advocated for improving staffing levels for all program integrity functions. A standard is needed to establish a reasonable investigator: household ratio. Nearly all State and County SNAP agencies are facing a shortage of eligibility workers currently focused on Unwinding and a backlog of certifications since the PHE ended. However, the worker shortage has hit the hardest in program integrity. Current antiquated regulations only require fraud detection units when an “area” exceeds 5,000 households – no standard in the amount of Program Integrity staff is defined - and the “area” can include the entire State. New York City once staffed over 1,500 fraud and recovery specialists – is now down to ~300.

Staffing varies at the State level and is grossly deficient – some States only have a single fraud investigator. Fraud rates may appear low – but only because States lack staff and resources to address fraud prior to issuance. The GAO reported on this deficiency for SNAP in 2016 – and while program rolls and expenditures have drastically increased since then, the number of program integrity positions has continued to decline.²⁴

DO NOT ENROLL

UCOWF suggests the creation of a free service citizens can sign up for to ensure their stolen personal identification information is not used to sign up for Government programs, similar to the “Do Not Call Registry,”. Currently, there is no way for a citizen to know if they have been signed up for a benefit/program – confirmation letters or emails are sent to fraudster addresses, or the real individual is notified they are having their income tax refund intercepted from the Treasury Offset Program.²⁵ With 2/3 of the country not receiving public assistance, the creation of a portal for citizens to sign up NOT to get benefits without contacting them would help reduce improper payments.

IN SUMMARY

UCOWF appreciates the invitation and willingness to consider our comments, suggestions, and we welcome the opportunity to provide further perspectives from the men and women across the nation striving to protect our taxpayer resources.

Should you have any questions on our feedback, please contact us at UCOWFmail@gmail.com.

²⁴ <https://www.gao.gov/assets/gao-16-719t.pdf>

²⁵ The Treasury Offset Program (TOP) is an effective method of ensuring payments do not go to individuals that owe the government money. However, not all programs are included or may use the TOP service for payment recoveries. See <https://www.fiscal.treasury.gov/TOP/>