UNITED COUNCIL ON WELFARE FRAUD

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December 28, 2023

U.S. House of Representatives Budget Committee
Honorable Jodey C. Arrington, Chairman
Oversight Task Force Members:
Honorable Jack Bergman, Chair
Honorable Tom McClintock
Honorable Ron Estes
Honorable Stephanie Bice
Honorable Lisa McClain
Honorable Chuck Edwards

Submitted electronically to budget.oversight@mail.house.gov

RE: Response to Oversight Task Force Solutions

Dear Oversight Task Force Members:

The United Council on Welfare Fraud (UCOWF) is a national professional organization dedicated to defending against the erosion of integrity in public assistance programs. [1] On behalf of UCOWF, we sincerely appreciate the opportunity to respond to your request for information on solutions to reduce government inefficiencies and improper payments dated November 1, 2023. In the social service programs, including, but not limited to, the Supplemental Nutrition Assistance Program (SNAP), Medicaid and Temporary Assistance to Needy Families (TANF), improper payments can be broken into two broad categories; payments made by agencies as the result of error, and fraud.[2]

As the exclusive national organization with a singular focus on detecting, preventing, prosecuting, and recovering welfare improper payments and fraud, we respectfully submit the following observations and suggestions.

On July 7, 2023, our immediate Past-President, Andrew Petitt, issued a statement on behalf of UCOWF documenting our concern regarding the SNAP FY 2022 Payment Error Rate (PER) that was published by the U.S. Department of Agriculture (USDA) on June 30, 2023. While our membership is largely comprised of fraud investigators, not quality control investigators, we felt it was important to amplify our concern regarding the 11.54 percent national PER and that those errors cost SNAP over $1 billion dollars per month in unrecovered improper overpayments. We were disappointed to see the FY 2022 error rates, but we are not surprised given the extensive fraud our members face on a daily basis.

Our subject matter expertise is with the second cause of improper payments, fraud. We continue to be appalled that USDA currently spends less than 1/20th 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

[1] Our membership consists of over 1,500 local, state, and federal employees sworn law enforcement and non-sworn (civilian) investigators, analysts, and improper payment recovery subject matter experts. For the last 50 years, UCOWF provides 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.
[2] https://www.gao.gov/products/gao-24-106608

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clearly see the numbers do not 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.

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 by both recipients and retailers during initial application and during recertifications.
- **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.

There are simple measures that will give immediate and substantial assistance to fight the ever-increasing occurrences of fraud that have become epidemic in the program. Specifically, some measures or provisions include:

1. Increased Retention Amounts with Mandated Use for States

No incentives currently exist for SNAP agencies to detect and prevent fraud at the front-end. Current incentives only exist in the inefficient recovery of overpayments, also known as "pay and chase." 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. Unfortunately, there are no mandates that require agencies to reinvest their State share of recoveries into program integrity; and few do.

2. Direct Funding to States

FNS spends 0.005% of appropriations on anti-fraud efforts. One twentieth of one percent. States are forced to carry the burden of protecting Federal assets/taxpayer monies with a 50% administration reimbursement rate. SNAP-Ed 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.

States, reluctant to invest their limited resources to protect federal taxpayer resources, are put at a significant disadvantage when compared to other assistance programs. The only grant program providing funds to States to combat fraud is a single annual SNAP Fraud Framework Grant, established by Section 4029 of the 2014 Farm Bill – which awards up to $750,000 to a single State/County out of the total $5M appropriated. However, not all appropriations are

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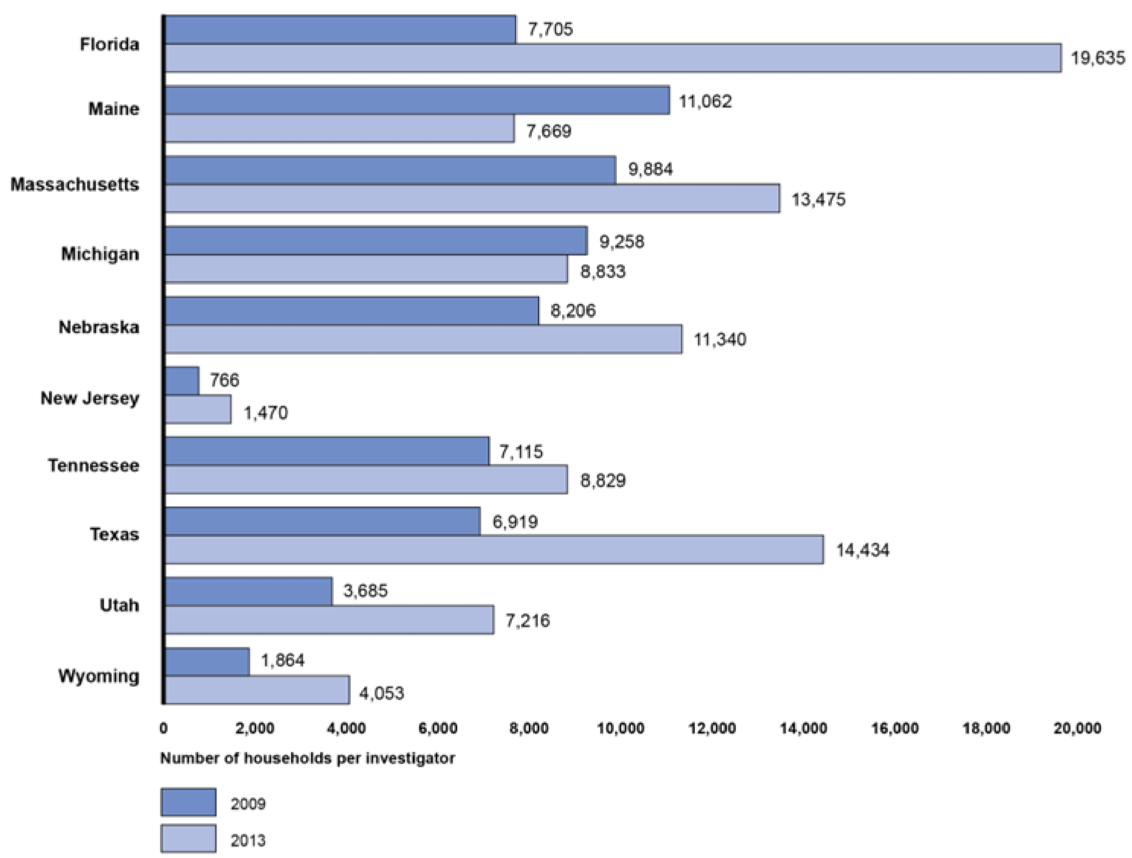
distributed; and while the grant is useful to states with smaller participation rates, the maximum funding is woefully inadequate for states with larger participation rates. Direct funding to states for the detection, prevention and prosecution of fraud is an obvious and critical missing piece of any solution and should not be designated to a small minority grant. Standards should be mandatory and funded.

3. Investigative Oversight Staffing

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 found in 7 CFR 272.4(g) 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, and the "unit" consist of a single person.

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. GAO has reported on this in report GAO-16-719T; and while recipient rolls and program expenditures have drastically increased over the past 20 years, there have been few increases in staff dedicated to protecting SNAP. To our knowledge, there hasn't been another analysis of SNAP Households per Investigator since 2013:

Figure 1: Number of Supplemental Nutrition Assistance Program (SNAP) Households per Investigator in Selected States, Fiscal Years 2009 and 2013



Source: GAO analysis of information provided by selected states. | GAO-16-719T

Note: New Jersey provided calendar year information for investigators. Florida lost 27 investigators in late 2009, dropping from 130 to 103. North Carolina was unable to provide the number of investigators because some local offices do not have designated fraud investigators. Furthermore, all investigators in the selected states were responsible for pursuing fraud in other public assistance programs, and therefore, could be responsible for monitoring a larger population than is mentioned in the figure.

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4. National Accuracy Clearinghouse

Several southern States tested the concept of data sharing through the "buddy state" model as early as 2008 as a result of lessons learned operating Disaster SNAP (D-SNAP) programs following Hurricane Katrina. The establishment of the Partnership Fund for Program Integrity Innovation by the Office of Management and Budget (OMB) in 2010 created the opportunity for funding a more comprehensive solution.

The following year, OMB awarded the USDA FNS $2.5 million with the goal of reducing improper payments that occur due to dual participation in SNAP. This grant funded the development of a searchable database – the National Accuracy Clearinghouse (NAC) – to support near real-time sharing of eligibility information. Subsequently, Mississippi was awarded the funding to lead the project on behalf of a consortium of contiguous States (also including Alabama, Florida, Georgia, and Louisiana, and most recently, Missouri).

A 2015 independent evaluation of NAC was provided to Congress showing success and the return on investment and cost savings to the program. The NAC found that dual participation across the five States was quite rare affecting roughly 0.1 percent of SNAP participants. However, the establishment of NAC did prevent dual participation, and the evaluation provided insights into best practices for States to use the data match most effectively. The CBO estimated that this provision will reduce SNAP spending by $576 million from 2019 to 2028.

In a 2018 press release, USDA wrote about the NAC stating, "The NAC Strengthens SNAP integrity through the nationwide expansion of an interstate data match to prevent household receipt of benefits from more than one State and by requiring States to provide USDA with greater access to SNAP records for inspection and audit." Subsequently, the 2018 Farm Bill required FNS to expand the NAC nationally to prevent duplicate simultaneous benefit issuance to the same individual in more than one State, mandating all States be actively participating in the NAC by December 31, 2021.

Unfortunately, in 2021, USDA FNS unilaterally decided to ignore Congress' directive by directing the Government Services Administration (GSA) 18F unit to construct a new and unproven pilot with over unnecessary rulemaking. This decision has delayed the implementation of this essential tool until 2027, a delay of more than six years costing the taxpayers an estimated $2.5 billion dollars when adjusted for inflation and increases due to the Thrifty Food Plan.

5. Identity Verification

Identity fraud, synthetic identity fraud, and account takeover are impacting all States. Our UCOWF conversations with States confirm the issue not being a one-off individual State or County SNAP agency problem. The issue has been demonstrated across all public assistance programs and exposed more broadly during the pandemic. SNAP is one of the last government assistance programs that does not utilize best industry practices in effective remote identity verifications. While the lack of identity verification has been recognized as a primary vulnerability that caused rampant fleecing of unemployment insurance, it still fails to be addressed in the prevention of fraud and theft in SNAP. Knowing your customer is the foundation upon which government agencies can best impact public assistance programs.

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The Consolidated Appropriations Act of 2023 allocated funding to replenish stolen benefits to the victims of EBT skimming and account takeover but has done ***nothing*** to prevent ongoing and future fraud. This lack of prevention has done nothing but tell the bad guys to take two more bites of the giant government funded apple. We cannot locate a single State or County requiring even the filing of a police report in the USDA FNS approved plans to address the issue.

One simple solution is to disable out-of-state transactions; redeeming benefits in a recipient's home state is a simple flick of a switch for EBT vendors, and exceptions can be made when requested by clients and those living in border counties. This would limit the organized criminal organization's effectiveness and give law enforcement a better chance of identifying those responsible. Our insights into this issue clearly show that this is first and foremost an identity "account takeover" issue, and updating antiquated regulations to address the lack of mandatory application fields that can help combat identity and eligibility fraud.

On October 19, the House Ways and Means Oversight Subcommittee held a hearing on "Investigating Pandemic Fraud: Preventing History from Repeating Itself." Witnesses Linda Miller and Amy Simon not only provided valuable information about the alarming depth and degree of fraud but also provided thoughtful solutions.

Linda Miller succinctly summarized the challenge posed by transnational criminals, stating, "*We've got a dynamic adversary, and we have very, very static processes that address them*." In the public assistance programs, the state and local agencies charged with distributing the benefits to the recipients are woefully unprepared to prevent fraud because these government agencies do not have access to basic technology to verify the identity of the applicant. Ms. Miller further testified that the "honor system" and prevalence of self-attestation/self-certification does nothing but encourage fraudsters while increasing improper payments. UCOWF agrees and believes that all public assistance programs should require verification of both identity and program eligibility where data exists to confirm/refute. An opportunity exists to address this in the 2024 Farm Bill.

Foremost in the testimony was the power of using data. Amy Simon succinctly stated, "*Suggesting that benefit timeliness and benefit accuracy must be opposing goals is a false dichotomy. Benefit timeliness for eligible claimants is often most possible when fraud attacks are identified and prevented. Eligible claimants and taxpayers pay a steep price when policymakers do not take fraud prevention, detection, investigation and/or prosecution as seriously as the circumstances warrant.*" Again, we wholeheartedly agree. Congress must address this deficiency in all federal programs to effectively combat online identity fraud now impacting real customers.

6. Agency Waivers/ Executive Action Overreach

The recent alarming trend we have observed is the increased use of agency waivers and rules that bypass/twist Congressional intent and oversight. Examples include:

- Social Security Administration Notice of Proposed Rule (SSA-2023-0015) to expand the definition of a public assistance household to increase public assistance rolls and participation.

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- In the aftermath of the Affordable Care Act, the Center for Medicare & Medicaid Services Health and Human Services (HHS) has increasingly encouraged agencies to accept self-attestation on eligibility factors easily confirmed or refuted, resulting in massive fraud, waste, and abuse. For example, HHS is actively encouraging states to submit Section 1115 waivers in a post-pandemic era to expand Medicaid assistance rolls. Under the guise of providing faster access, states are using waivers to streamline processes for determining eligibility and providing services, including authorization of benefits during presumptive eligibility periods, and accepting self-attestation as verification for financial eligibility.

  The impact is far-reaching. With active HHS encouragement, the state of California passed laws requiring the submission of waivers to HHS; to ignore/disregard asset limits, and to expand federal Medicaid to non-citizens – including undocumented/ illegal immigrants. These waivers, signed by a policy director at the agency level, incur costs to other states and the federal government that exceed the threshold established by the Congressional Review Act (5 U.S. Code § 801). Yet neither the House nor Senate are provided advance notice or input in the "waiving" of established law, such as the Social Security Act Section 1115. Further, the agency's approval of waivers appears to violate PAYGO. Instead of waiving eligibility income and asset tests designed to preserve services for the truly needy, Congress should address outdated asset limits but require verifications that are readily available.

  HHS has not stopped there. In an open proposed rule (2023-25576), they state, "*We propose to amend § 155.315(e) to provide that all Exchanges can accept applicant incarceration status attestations without further verification…*" To accept incarceration status willfully and blindly on the honor system defies logic, and merely serves the interests of those seeking to undermine program integrity.

- The Consumer Financial Protection Bureau (CFPB) has also weighed in with proposed rulemaking with far-reaching and devastating consequences. The CFPB has proposed regulations that limit law enforcement's ability to access public record data, including criminal histories and limiting access to credit header data. Through executive action and overreach, the CFPB is creating a fourth branch of government that is not beholden to representation of elected officials. In fact, the proposed language mirror bills under consideration by the 118th Congress.

  Their proposed rules pose a significant threat to our efforts in detecting and preventing identity fraud, synthetic identity fraud, and the takeover of accounts held by current recipients, a group that includes our nation's most vulnerable and marginalized citizens, across all government assistance programs. While we commend the CFPB's intentions regarding credit header data and stringent privacy protections, the unintended consequences are alarming and require immediate attention.

  These consequences not only hinder our members, both sworn and non-sworn, from accessing crucial data needed to confirm applicant and recipient identities but also open the door to government funds that have been exploited by organized criminal groups, transnational fraud rings, terrorists, and hostile nation-states

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actively seeking to harm the United States while profiting from the exploitation of the very individuals the CFPB aims to protect. The proposals, as currently crafted, are akin to discarding the valuable with the obsolete and are merely another effort to "defund the police" by limiting tools available to protect taxpayer resources.

- Much has been written about Broad-Based Categorical Eligibility (BBCE) – what once was a well-intentioned option for States to administer public assistance programs effectively and efficiently has been twisted into an intentional expansion of public assistance rolls without regard to program integrity. BBCE is a policy in which households may become categorically eligible for SNAP because they qualify for a non-cash TANF or state maintenance of effort funded benefit. This loophole results in millions of normally ineligible households becoming dependent on the government with the increased dependency on self-attestation and the willful disregard of income and asset verifications. Congress should eliminate BBCE in its current configuration and restore public confidence in the government's ability to provide services.

- And finally, we encourage Congress to look into the abuses of Disaster Declarations as established by the Stafford Act that allow federal executive leaders to establish their own disaster/pandemic programs with little to no oversight. Programs impacted include unemployment insurance, SNAP, and Small Business Administration's business loans.

In closing, we applaud your Committee's work in identifying fraud in government spending and future implementation of methods to detect, prevent and prosecute fraud. Additionally, we appreciate the invitation to provide input and offer our ongoing support.

It is our hope that the USDA FNS will seek other avenues to reform the convoluted QC Process using data analytics and a mind towards program integrity, rather than technical computations to manipulate a payment error rate for political purposes. We applaud the USDA FNS for the effort, even though these changes fall short of meaningful reform. If you have any questions, please contact us at UCOWFmail@gmail.com.

Sincerely,

Carrol R. Christian

Carrol Christian, UCOWF President