

STATEMENT OF MICHAEL CULLEN  
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BEFORE THE  
COMMITTEE ON FINANCE  
UNITED STATES SENATE

Hearing on Reducing Overpayments and Increasing Quality in the Unemployment System

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Chairman Baucus, Ranking Member Hatch, and distinguished members of the committee, thank you for the opportunity to testify this morning.

I am Mike Cullen, Managing Director at On Point Technology. On Point Technology's entire focus is Unemployment Insurance, and as a company we take pride in our employees' experience and expertise in this arena. Prior to joining On Point, I spent 14 years with the Colorado Department of Labor and Employment, serving six years as the State's Unemployment Insurance Program Director – our staff possesses similar backgrounds as career state unemployment insurance professionals. For over 15 years, On Point's solutions have enabled 17 states to find and collect improperly paid UI benefits, returning hundreds of millions of dollars to their state trust funds. We are proud to provide more efficient management systems that strengthen UI programs and help minimize tax burdens on employers and now with multiple federally funded extensions, return improperly paid dollars to the US treasury.

**Background**

The Unemployment Insurance system continues to face its greatest set of challenges in a generation. The recession's impact on state and federal UI trust funds is clear and stark as millions of unemployed continue to look for work in an economy that struggles to regain its feet. A year ago, before this committee, I testified that state trust funds have been forced to borrow a combined \$38 billion. As of June 16, 2011 state trust funds have an outstanding balance of \$41 billion in loans. The President's 2012 budget addresses the continuing increase in state borrowing; "Heavy borrowing from the Federal Unemployment Account (FUA) is projected to continue over the next few years. The aggregate loan balance is projected to increase from \$40.2 billion at the end of FY 2010 to a peak end-of-year balance of \$68.3 billion in FY 2013. Up to 40 states are projected to borrow".

We also testified that the problem was not exclusive to the states as Federal UI accounts had borrowed an additional \$37 billion from the United States Treasury to support the numerous federal unemployment insurance programs. The Department of Labor FY 2011 Mid-session Budget Review indicates that a combined additional \$42 billion will have to be borrowed in 2010 and 2011 from the general fund to support the extended

federal programs. Over the last year, despite the focus on improper payments, the rate of improperly paid benefits has gone from 9.6% in 2009 to 10.6% in 2010 and is currently at 11.51%.

Extended payment of benefits to the unemployed, bankrupt trust funds, unparalleled borrowing, and unprecedented levels of improperly paid benefits means that we are placing the future ability of the unemployment insurance program to act as an economic stabilizer at risk. Employers, who are struggling to keep their business afloat, are increasingly bearing the burden of rebuilding the trust funds through repetitive tax increases. In 2010, employers in 24 states saw UI tax increases. In 2011, employers in 35 states saw UI tax increases. If the trend continues, tens of thousands of employers will face additional tax increases in 2012. Employers are now experiencing not only the burden of increased taxes to replenish trust funds, but to pay interest on the debt the program has accumulated. The cumulative effect of this situation is that employers are now forced to bear the UI tax burden rather than use the money to create jobs. It is imperative we bring the improper payment problem under control because we are headed in the wrong direction.

Since the beginning of the recession in December 2007, more than \$370 billion in unemployment benefits have been paid. Moreover, the Administration projects that an additional \$430 billion of UI will be paid from 2011-2016. In 2010 alone \$18 billion in benefits were improperly paid. Yet, additional funding to combat the problem was only \$18 million. That's \$1 dedicated to combating the problem for every \$1000 improperly paid. This is unacceptable and does not begin to address the problem. If we continue at today's rate an additional \$50 billion will be improperly paid over the next 6 years with that number likely to increase if we do not take action now.

The current outdated systems create a tension between timely processing of benefits and ensuring the integrity of these payments. However, this dilemma ultimately represents a false choice. With an investment in technology systems and improvements in the use of the data available to us, we can both improve states' capacity to process benefits while dramatically enhancing the integrity of these payments.

### **Administrative Funding**

Since 1992, administrative funding for the UI program has remained static. State agencies have been required to cut service levels or compete for other state dollars to administer their UI programs. During the Great Recession administrative funding was provided to deal with the significant increase in workload resulting from the huge increase in claims volume and to support the administration of the federal extensions and federal additional compensation. As the economy recovers the additional funding will begin to dry up and state UI programs will return to pre-recessionary levels; levels barely able to sustain program administration. However, the improper payment collection problem will continue and there is no additional funding to help pay for the activities associated with the lingering collection requirements. Because the focus to this point has been the payment of claims; improved processes, staff hiring, automation, etc. has

revolved around getting the money in the hands of the unemployed. Integrity has largely remained an under-staffed, manual activity. Post-recession funding for integrity has not been a focus.

### **National Directory of New Hires**

Access to the National Directory of New Hires (NDNH) has been available to state workforce agencies since 2004. Use of the directory data has been mandated since 2007. In Unemployment Insurance Program Letter 19-11, issued June 10, 2011, the Department of Labor has directed that all state UI programs begin using NDNH cross-match data no later than December 2011. This is a positive step forward. Our experience has been that states who use NDNH cross-matching are able to reduce the size of the overpayment by about 50%. It is this early detection that has the potential to bring significant, immediate improvement to addressing the improper payment problem.

However, the challenge we see in relying solely on the NDNH is the unknown participation level by employers. We find that in states where both an NDNH cross-match and a quarterly benefit / wage cross-match are run, each finds about 50% of the total overpayments detected around claimants who were working while collecting UI benefits (The USDOL refers to this as a benefit year earnings overpayment).

### **Automating the Prevention, Detection and Recovery of Improper Payments**

The issue faced by most agencies is what to do with the results of cross-matches or other processes that produce mass volumes of potential improper payment data. The majority of states rely upon manual processing to recoup wrongly paid benefits. Performing calculations, interfacing with state systems, and creating documents for employers and claimants are labor intensive processes. Resolving any question regarding a case, generally requires searching through file cabinets to secure the required information. These manual processes prevented states from addressing the overpayment problem before the recession and have proven impossible to ramp up with the increase in workload.

Adapting existing technology to eliminate this paper processing will dramatically increase productivity. States should store information in a web-accessible system to enable automated reports, letters, and interfaces thereby increasing productivity. Most states adjudicate every overpayment manually based on state statutes and UI case law. However, technology enables states to translate state law and precedents into business rules in order to issue automated determinations. Using these techniques we have seen states automate over 85% of overpayment decisions. This approach ensures consistency of approach and outcomes. It is our experience that implementing software incorporating these processes improves the overall detection and processing of UI overpayments by at least 300%. One state has had a return on investment of more than 100 times the original cost.

### **Reward High-Performing State Workforce Agencies**

UIPL 19-11 which set the strategy for addressing the improper payment problem has also identified 10 “high impact” states, to pilot “cross-functional task forces”. In general the directive focused on those states with the largest populations. We believe this approach is mis-guided. Small and medium population states also possess good ideas and success stories from which everyone would benefit. Rather than focus on population, we believe the Department should support any state that can clearly demonstrate a comprehensive plan to address the improper payment issue. It is critical that we take steps to improve processes in the states and take advantage of every innovative idea.

### **Implement a National Effort to Combat Organized Fraud**

Organized fraud exists. States that are armed with software to find organized fraud can avoid significant losses to their trust funds. In June of 2005, the U.S. Department of Labor’s Office of Inspector General testified before Congress about a single organized fraud ring that stole 15,000 identities and committed \$58 million of UI fraud. Other cases have been found. A proactive approach could have identified this organized fraud earlier, saved millions of UI dollars, and prevented identity theft for thousands of individuals. The use of automated software to search disparate databases for known patterns of fraud can detect and stop these illegal activities.

Unfortunately the nature of the UI federal-state partnership and the legal processes involved with prosecuting fraudulent activities has often left state agencies isolated and has precluded the sharing of information. States often are unaware of schemes that are perpetrated in other neighboring states or other regions of the country. A focused effort on the part of the Department of Labor to address fraud and share information is needed.

### **Recommendations**

Improper payments represent a large and growing threat to the integrity of the UI system and require an immediate solution. We believe there are several ways that Congress can dedicate a comparatively small amount of what it currently invests in the management of these program yet yield substantial results to both the U.S. Treasury and state UI trust funds.

1. Provide a level of funding to the states that is appropriate to the problem.
  - Lacking a dedicated funding mechanism for integrity operations, we support the proposal of the National Foundation for Unemployment and Workers Compensation (UWC) and State Chambers of Commerce that a continued annual investment of \$30 million for integrity be part of a competitive grant process. Funding must be based on a clear demonstration of dramatic improvement by a state agency using the investment.

- Congress should provide dedicated administrative funding for software to support effective integrity activities with each UI extension. Purposing 10% of the administrative funds for integrity technology to protect the dollars from fraud and abuse could return significant multiples of the investment in the first year of implementation alone. Both the Congressional Budget Office and the Department of Labor have recognized that dedicated integrity funding produces net revenue increases for the unemployment trust funds and the federal budget. Based upon our experience, investments in software for state integrity programs can easily return \$10 every year for each dollar spent in the first year.
2. Convene a task force that involves the public and private sector, with the sole focus of examining and recommending tools that can be used to detect and stop overpayments earlier and recover any previously lost funds. If there is an opportunity that can be served by a government and business partnership, this is it. A clear plan and strong action with an emphasis on tools and employer cooperation could result in hundreds of millions if not billions of dollars in savings for employers and the US treasury. The task force should be given the direction to report back with specific tools and processes that will have an immediate impact on the improper payment issue within six months. Let us not forget the huge dollars here, \$18 billion improperly paid in 2010 alone; a number that continues to grow at an unprecedented pace. The Department of Labor has laid out their strategic plan but action needs to be taken now on process improvement.
  3. Good strategic vision must be met with operational improvements. We support the USDOL's mandate of the National Directory of New Hire, the soon-to-be-introduced SIDES transaction for discovering earnings overpayments and the integrity proposal for longer range integrity funding. Yet, we have an expression at On Point Technology: "There is a river of fraud – just dip in your bucket". States cannot process the cases that they could find now, so they dial down the discovery process. Detecting more overpayments will widen the river. What is first needed is a bigger bucket. Success in dealing with the improper payment issue cannot come until states have automated processes to handle the load. USDOL should require the use of automated tools to handle the tremendous volume of improper payments that should be collected and to provide for early detection and prevention.
  4. In concert with the Department of Labor and the states, we encourage Congress to consider a long-term legislative solution to the Unemployment Insurance integrity problem. In this context, the proposed Unemployment Compensation Integrity Act is a much needed first step towards a thoughtful legislative process. In particular we support the use of 5% of recovered overpayments to support integrity operations. We recommend this investment be mandated and that it augment and not replace current administrative funding used by the state for

integrity purposes. The concept of a consistent, self-supporting funding stream rather than occasional supplemental grant opportunities just makes sense.

Our unemployment insurance system is a vital lifeline for millions of Americans especially during times of economic turmoil like we face today. We must act to preserve the integrity of the system to ensure its continued viability for those in need. Fortunately, we are in a position to strengthen the UI trust funds and to help ease the tax burdens our employers will soon face. A modest investment in integrity technology will yield significant savings for the government, our employers and our taxpayers.

Thank you for the opportunity to testify. I am available for any questions you might have.