

Congress of the United States

Washington, DC 20515

June 6, 2023

Brent Parton
Acting Assistant Secretary
Employment and Training Administration
U.S. Department of Labor
200 Constitution Ave NW
Washington, DC 20210

Dear Acting Assistant Secretary Parton:

We write regarding the over withdrawing of federal unemployment insurance (UI) funds by the Commonwealth of Massachusetts under former Governor Charlie Baker, and to urge the Department of Labor (DOL) to work constructively with Governor Maura Healey and her administration to rectify this issue. Congress enacted new and supplemental federal UI programs to alleviate the impact of the COVID-19 pandemic for millions of families in Massachusetts and across the country. However, as a result of prioritizing disbursements to claimants due to heightened need as well as outdated infrastructure, many states have encountered issues in administering federal pandemic UI funds. This includes Massachusetts, where under Governor Baker's administration, an accounting error resulted in roughly \$2.5 billion being over withdrawn from federal UI funds instead of the state UI trust fund. While UI claimants will not be affected by this issue, we urge you to work with the state government to find a solution that will allow Massachusetts to address the problem while minimizing the impact on hardworking people and small businesses in the Commonwealth.

The COVID-19 pandemic had a disastrous impact on the U.S. economy and working families. Tens of millions of Americans lost their jobs, families struggled to put food on the table, and small businesses across the country, including in Massachusetts, were forced to close their doors.¹ In response, Congress passed the *CARES Act* of 2020 and the *American Rescue Plan Act* (ARPA) of 2021 to establish new federal emergency unemployment insurance programs.² These programs were critical in diminishing hardship for families and stabilizing the economy.³ Without the additional support provided by these programs, millions of Americans would have

¹ U.S. Bureau of Labor Statistics, "Effects of the coronavirus COVID-19 pandemic (CPS)," November 2, 2022, <https://www.bls.gov/cps/effects-of-the-coronavirus-covid-19-pandemic.htm>; Georgetown University Center on Education and the Workforce, "Tracking COVID-19 Unemployment and Job Losses," <https://cew.georgetown.edu/cew-reports/jobtracker/>; Board of Governors of the Federal Reserve System, "Business entry and exit in the COVID-19 pandemic: A preliminary look at official data," Ryan A. Decker and John Haltiwanger, May 6, 2022, <https://www.federalreserve.gov/econres/notes/feds-notes/business-entry-and-exit-in-the-covid-19-pandemic-a-preliminary-look-at-official-data-20220506.html>; MassLive, "As COVID closed thousands of restaurants in Massachusetts, these eateries in Worcester County opened second locations," Michael Bonner, June 6, 2021, <https://www.masslive.com/worcester/2021/06/as-covid-closed-thousands-of-restaurants-in-massachusetts-these-eateries-in-worcester-county-opened-second-locations.html>.

² CARES Act of 2020, Public Law 116-136; American Rescue Plan Act of 2021, Public Law 117-2.

fallen into poverty, particularly workers of color who were disproportionately impacted by the pandemic job losses.⁴ As DOL itself stated in its FY23 budget request, “Unemployment insurance benefits helped over 53 million workers who lost their jobs through no fault of their own and put some \$870 billion back into the economy during the pandemic.”⁵ Broadly, “pandemic unemployment benefits helped the economy stabilize and then recover from one of the most rapid and steep job declines in U.S. history.”⁶

In Massachusetts, state officials worked tirelessly to make sure the additional funding made it into the pockets of families in need as soon as possible. Over the new UI programs’ 18-month duration, Massachusetts disbursed an unprecedented roughly \$33 billion in benefits to more than 4 million claimants.⁷ This funding came at a critical time – in June and July 2020, Massachusetts had the highest state unemployment rate in the nation at 17.7 percent.⁸ The boost in UI helped Bay Staters experiencing pandemic-induced or -exacerbated hardship: during a time when a quarter of adults had difficulty covering basic household expenses, UI benefits helped them make ends meet.⁹ This injection of funds into the economy also helped businesses keep their doors open, sustaining demand for consumer goods and services even as people were forced out of work. Thanks to this emergency funding, unemployment in Massachusetts has fallen nearly to pre-pandemic lows of just over 3 percent,¹⁰ and as businesses bounce back, job growth continues to rise.¹¹

³ Center on Budget and Policy Priorities, “Historic Unemployment Programs Provided Vital Support to Workers and the Economy During Pandemic, Offer Roadmap for Future Reform,” Nick Gwyn, March 24, 2022, <https://www.cbpp.org/research/economy/historic-unemployment-programs-provided-vital-support-to-workers-and-the-economy>.

⁴ *Id.*

⁵ U.S. Department of Labor, “SECRETARY OF LABOR MARTY WALSH ADDRESSES PRESIDENT’S FISCAL YEAR 2023 BUDGET REQUEST,” press release, March 28, 2022, <https://www.dol.gov/newsroom/releases/osec/osec20220328>.

⁶ Center on Budget and Policy Priorities, “Historic Unemployment Programs Provided Vital Support to Workers and the Economy During Pandemic, Offer Roadmap for Future Reform,” Nick Gwyn, March 24, 2022, <https://www.cbpp.org/research/economy/historic-unemployment-programs-provided-vital-support-to-workers-and-the-economy>.

⁷ Boston Globe, “After three-year pause, state begins clawbacks of \$719 million of jobless benefit overpayments,” Shirley Leung, March 30, 2023, <https://www.bostonglobe.com/2023/03/30/business/state-allowing-more-time-some-resolve-jobless-benefit-overpayment-claims-while-beginning-clawbacks-others/#:~:text=In%202020%20and%202021%2C%20the%20state%20administered%20%2433%20billion%20in,unemployment%20checks%20to%20400%2C000%20claimants>.

⁸ Massachusetts Budget and Policy Center, “Unemployment Insurance Saved the Massachusetts Economy. How Can We Ensure It Will Be Strong for the Future?” Phineas Baxandall, November 17, 2020, <https://massbudget.org/2020/11/17/unemployment-insurance-saved-the-massachusetts-economy-how-can-we-ensure-it-will-be-strong-for-the-future/>.

⁹ Center on Budget and Policy Priorities, “Tracking the COVID-19 Economy’s Effects on Food, Housing, and Employment Hardships,” August 13, 2020, <https://www.cbpp.org/research/poverty-and-inequality/tracking-the-covid-19-economys-effects-on-food-housing-and>.

¹⁰ U.S. Bureau of Labor Statistics, “Local Area Unemployment Statistics,” <https://www.bls.gov/lau/>; Federal Reserve Bank of St. Louis, “Unemployment Rate in Massachusetts,” <https://fred.stlouisfed.org/series/MAUR>.

¹¹ Massachusetts Executive Office of Labor and Workforce Development, “Massachusetts Unemployment & Job Estimates for April,” press release, May 19, 2023, <https://lmi.dua.eol.mass.gov/lmi/NewsRelease/state>; The Berkshire Eagle, “Business leaders optimistic that the Berkshires workforce will bounce back after the pandemic,” Alanis Broussard, April 16, 2023, https://www.berkshireeagle.com/news/local/business-experts-optimistic-that-the-berkshires-workforce-will-bounce-back-after-the-pandemic/article_4e34ede0-dadf-11ed-bded-278cacc68c9f.html.

However, states have faced significant obstacles in appropriately administering federal pandemic UI funds. This is due in part to the prioritization of speed in disbursements, but also to the federal government's unfortunate underinvestment in federal and state UI infrastructure. Some states are taking steps to modernize their computer systems and invest in fraud prevention¹²; in Massachusetts, the Healey administration's Employment Modernization and Transformation Project will directly address these issues by modernizing and transforming the state UI program's operations and underlying systems. But the federal government must also make long-term investments in strengthening UI benefits and administration to ensure the UI system fulfills its mandate. Modernizing UI program technologies would make it easier for states to pivot in a crisis and correct mistakes as they arise. Instead, as part of their debt ceiling hostage-taking tactics, House Republicans forced a 50 percent—\$1 billion—cut to ARPA's federal unemployment modernization and program integrity grants into the debt ceiling package.¹³ The path to building a UI system that works for all Americans is not through cuts but instead investments and policies that give states the tools they need to address the particular issues their programs face.¹⁴

Massachusetts's Annual Comprehensive Financial Report (ACFR) for fiscal year (FY) 2022, published on Friday, June 2 by the state Office of the Comptroller,¹⁵ identifies an unprecedented challenge faced by the Commonwealth, stemming from issues that arose under former Governor Baker's administration. In the FY 2022 ACFR, the Office of the Comptroller identified that over the course of the pandemic, Massachusetts inadvertently over withdrew roughly \$2.5 billion from federal UI funding sources to pay claimants their benefits under the new UI programs. While the benefits were correctly calculated and disbursed to Massachusetts claimants, an internal accounting error resulted in certain UI benefit payments drawing on federal UI funds instead of the state UI trust fund. In late 2021, the administration of former Governor Charlie Baker noticed the absence of a significant drop in the balance of the state trust fund—surprising given the volume of unemployment benefits being paid out—and contracted with accounting firm KPMG to conduct an independent assessment of the “financial status of the Commonwealth's unemployment system and the UI Trust Fund balance.”¹⁶ Concerningly, KPMG's purportedly thorough audit did not reveal the existence of this anomaly,¹⁷ nor did the

¹² See e.g., Department of Labor, “Unemployment Insurance modernization,” <https://www.dol.gov/agencies/eta/ui-modernization#examples>; GCN, “States dive into unemployment system upgrades,” Susan Miller, April 8, 2021, <https://gcn.com/cloud-infrastructure/2021/04/states-dive-into-unemployment-system-upgrades/315272/>.

¹³ Department of Labor, “Unemployment Insurance modernization,” <https://www.dol.gov/agencies/eta/ui-modernization#examples>; NPR, “Debt limit deal claws back unspent COVID relief money,” Ximena Bustillo and Tamara Keith, May 31, 2023, <https://www.npr.org/2023/05/31/1178996725/debt-ceiling-deal-unspent-covid-relief-money-democrats-republicans>.

¹⁴ Center on Budget and Policy Priorities, “Ways and Means Bill Misses the Mark on Unemployment Fraud,” Nick Gwyn, February 27, 2023, <https://www.cbpp.org/blog/ways-and-means-bill-misses-the-mark-on-unemployment-fraud>.

¹⁵ Massachusetts Office of the Comptroller, “Annual Comprehensive Financial Report for the Fiscal Year Ended June 30, 2022,” June 2023, https://www.macomptroller.org/wp-content/uploads/acfr_fy-2022.pdf.

¹⁶ Mass.gov, “Unemployment Insurance Trust Fund Reconciliation Report Released,” press release, December 31, 2021, <https://www.mass.gov/news/unemployment-insurance-trust-fund-reconciliation-report-released>.

¹⁷ Massachusetts Executive Office of Labor and Workforce Development, “Unemployment Insurance Trust Fund Reconciliation Project Summary Report,” December 2021, <https://www.mass.gov/doc/kpmg-ui-trust-fund-reconciliation-project-summary-report/download>.

ACFRs for FY 2020 and 2021 audited by KPMG and accounting firm CliftonLarsenAllen, respectively.¹⁸

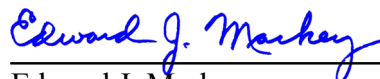
We understand the need to ensure accountability for federal dollars, while also ensuring that any resolution does not unnecessarily and negatively impact Massachusetts families and businesses. Governor Maura Healey’s staff assumed office earlier this year and, since being notified of this issue, has been working diligently with the state comptroller and DOL to discern the scope of this discrepancy and determine how to respond appropriately while minimizing the impact on the Commonwealth. Critically, Governor Healey’s office has assured us that repayment of these dollars will not affect claimants who received benefits using the over withdrawn funds. For its part, EOLWD is taking steps to enhance its internal controls, including by increasing staff, enhancing staff training, and improving communications with its partner agencies, to prevent a similar error from occurring in the future. We urge you to continue to work cooperatively with the state government to develop a plan for Massachusetts to address this issue.

Thank you for your attention to this matter.

Sincerely,



Elizabeth Warren
United States Senator



Edward J. Markey
United States Senator



Lori Trahan
Member of Congress

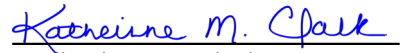


Stephen F. Lynch
Member of Congress

¹⁸ Massachusetts Office of the Comptroller, “Annual Comprehensive Financial Report for the Fiscal Year Ended June 30, 2020,” March 2021, https://www.macomptroller.org/wp-content/uploads/acfr_fy-2020.pdf; Massachusetts Office of the Comptroller, “Annual Comprehensive Financial Report for the Fiscal Year Ended June 30, 2021,” April 2022, https://www.macomptroller.org/wp-content/uploads/acfr_fy-2021.pdf.



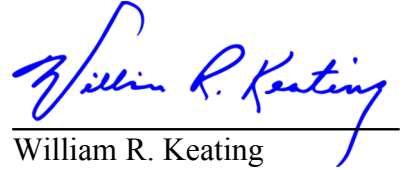
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