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## CARES Act Unemployment Insurance Program Implementation in Kentucky: A Case Study

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CARES Act Unemployment Insurance Program Implementation in  
Kentucky: A Case Study

By Alicia Landon

PA 681 MPFM Capstone

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## **Executive Summary**

In March of 2020, the COVID-19 pandemic arrived in the United States. The deadly virus filled hospitals to capacity and caused approximately 375,000 deaths nationwide over the next nine months (Ahmad et al., 2021). In an effort to slow the spread of the Coronavirus, federal and state governments closed businesses and agencies within a matter of weeks. Almost as quickly as the threat to human health changed the lives of Americans, the secondary threat of economic disruption began to unfold. Nationwide unemployment rates increased from approximately 4% to 15% between February 2020 and April 2020 (U.S. Bureau of Labor Statistics, 2019). In response, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) was passed in March of 2020. It provided needed funding for relief to businesses and citizens who were impacted. One provision of the CARES Act was to help states provide unemployment insurance (UI) to workers who were impacted during the pandemic including those who were not traditionally eligible for unemployment insurance such as small business and those who are self-employed.

The CARES Act passed quickly because of the emergency circumstances the pandemic presented. Consequently, it had a short timeframe for policy development. The legislation relied on states to implement the programs but provided insufficient guidance. Meanwhile, states faced public pressure to distribute the payments quickly. Expedited implementation, high volume of recipients, and scarcity of staff resources in government offices during the pandemic caused challenges to states in distributing the benefits to their entitled recipients.

This report focuses on how the state of Kentucky dealt with the challenges of implementing the CARES UI program implementation. Laws, government reports, news articles, and audits are examined to provide context and a general understanding about the CARES Act and its provisions for unemployment. The research will examine how Kentucky dealt with challenges common to many states as well as how it handled its own unique UI program implementation challenges.

The purpose of doing a case study is to provide an in-depth analysis of successes and failures of CARES Act UI programs in Kentucky. The circumstances and reasons for the outcomes that occurred can provide valuable lessons about UI public policy in Kentucky. The conclusions from this study can be used to develop more sound public financial management practices and to inform policy planning for emergency health and economic crises. Applicability of this analysis may be beneficial on the federal level where future policy is written, and on the state level, where states can design more robust unemployment insurance programs.

## **Research Methodology**

A qualitative research design is used to answer questions about the successes and failures of CARES Act UI practices in Kentucky. Specifically, the aim of this investigation is to clarify how the policy was implemented, what outcomes were achieved, and the circumstances that explain why. A comparative analysis is conducted between the federal policy and procedures for CARES UI programs and the policies and procedures implemented in Kentucky. Kentucky is examined as a case study to better understand the political and financial constraints to implementation. Context is provided through looking at the successes and challenges of other states and through Federal policy documents. By focusing on Kentucky, a more in-depth analysis can be made about the political, logistical, and financial limitations and other factors that contributed to the problems of incorrect payments and slow processing. The findings are compiled to help tailor future public policy on emergency unemployment programs.

This type of investigation is a systematic review of information on CARES Act UI program implementation. A systematic review is different from an ordinary literature review in that it is more selective and specific to a particular topic. A literature review uses subjective criteria and informal methods to select and interpret sources. In contrast, this systematic review uses specific criteria for selecting primary sources and then evaluates and interprets sources critically.

Government policy documents have been selected from highly respected sources for the purposes of this analysis. For the purpose of understanding guidance to improve federal practices, investigations released by the Government Accountability Office were consulted, and in order to understand findings more specific to each individual state, respective state audit reports were assessed. The methods of cataloging the findings from various sources in tabular form provide a structural foundation to base comparison and find patterns across the literature.

The first part of the systematic analysis summarizes The CARES Act UI provisions to provide a basis of the new programs that states needed to administer. Soon after the CARES Act UI programs were written into law, the problems states faced in maintaining adequate controls and preventing fraud became concerns recognized by the United States Federal government. In response, the Department of Labor (DOL) and the Federal Emergency Management Agency (FEMA) issued guidance to reduce the risk of fraud. These statements are collected and summarized along with press releases issued in 2021 by the Department of Justice (DOJ) about prosecution of unemployment fraud. The summary of these documents lays out a timeline of the policy and guidance the federal government provided to the states.

Reports and audit documents from other states are consulted to further understand the differences between CARES UI policy as designed by the federal government and the reality faced by states. The statewide single audit in Kentucky 2020 and 2021 are consulted to understand what ways Kentucky was noncompliant in administering unemployment insurance programs during the years the CARES Act unemployment programs were in effect. The Kentucky audit findings are listed in a table and compared with the guidance from the Department of Labor unemployment insurance program letters. Contemporary news articles and press releases then round out the insights found in Kentucky audits as to the reasons for noncompliance in Kentucky. These sources also inform and subsequent actions taken to attempt to address noncompliant practices.

The goal of this methodology is to answer the following questions about CARES UI programs and UI public policy in Kentucky.

## **Research Questions for this Investigation:**

- 1) Did Kentucky policymakers make changes in policy and emergency protocols to secure greater capacity for claims through technological improvements, workforce flexibility, and dedicating financial resources to funding unemployment insurance programs.
- 2) How will investing in the Kentucky Unemployment system in the near-term benefit Kentuckians in the long term?
- 3) How, if at all, will politically motivated actions impact the risk that Kentucky tax dollars will be lost to fraud and mismanagement?

## **Research Design Limitations**

The limitation of this study design is that it does not allow for quantitative evidence that any practice or set of practices is superior to alternatives. This research cannot address the effectiveness of any CARES Act unemployment insurance policies or practices. Instead, the primary objective is an examination of specific circumstances that existed, and the social and political reasons for those circumstances, in order to understand the problems that arose in a broader context. The findings of this research may then be used to examine correlations of specific practices to social, financial, or political factors identified here for further analysis.

## **Literature Review**

This literature review provides an overview of the unemployment insurance programs implemented by the CARES Act during the COVID-19 pandemic and consults sources to help assess their administration and effectiveness. The literature is organized first with an outline of programs that CARES federal legislation created along with an overview of administrative roles and responsibilities for UI programs. Then the problem of fraud is presented and discussed followed by the program design flaws and implementation problems that led the CARES UI programs to be targeted. Solutions and best practices discovered by other states and recommended by federal oversight agencies, chiefly the

Government Accountability Office are presented and analyzed for effectiveness. Finally, fraud within the UI programs is revisited to apply and assess the application of a fraud risk framework and address the key research questions.

## **L1. CARES Act Unemployment Programs:**

As part of the U.S. Federal government's response to the economic impacts of the COVID-19 Pandemic, multiple unemployment insurance programs were included in the CARES Act that supplemented existing programs. Based on the Department of Labor's recommendations these are summarized below.

|   |
|---|
| <p><b>Pandemic Unemployment Assistance (PUA)</b></p> <p>Expands UI benefits and expands eligibility to those not formerly eligible such as gig workers.</p>   |
| <p><b>Federal Pandemic Unemployment Compensation (FPUC)</b></p> <p>Allowed eligible individuals collecting UI benefits to receive an additional \$600 in federal benefits per week for weeks of unemployment until July 31, 2020.</p>                           |
| <p><b>Pandemic Emergency Unemployment Compensation (PEUC)</b></p> <p>Allows beneficiaries of Unemployment Insurance benefits an additional 13 weeks of benefits (after they would stop being traditionally eligible). (US Department of Labor, April 2020).</p> |

CARES Act UI programs helped to supplement existing or traditional UI programs in order to mitigate economic impacts many citizens experienced due to government closures and supply chain disruptions related to the pandemic. These programs operate with the input and cooperation of both state and federal agencies. Therefore, the roles and responsibilities of federal and state programs must be considered in order to understand UI program problems and proposed solutions.



**Table 1. Explanation of Federal and State UI Program Responsibilities**

(Based on GAO Assessment)

| Federal  | State  |
|--|--|
| <p><u>Program Design:</u><br/>DOL creates federal UI program parameters</p>  | <p><u>Program Design:</u><br/>States design UI programs within federal parameters</p>  |
| <p><u>Administration:</u><br/>DOL oversees states compliance of program implementation and that state statutes reflect federal laws</p>    | <p><u>Administration:</u><br/>States establish benefits amounts, benefits structures, eligibility provisions and other program aspects through creating state statutes</p> |
| <p><u>Compliance:</u><br/>DOL provides program guidance, technical assistance and oversees states compliance of program implementation</p> | <p><u>Compliance:</u><br/>States are responsible for making sure UI programs determine eligibility properly, make accurate payments and prevent fraud.</p>                 |
| <p><u>Funding:</u><br/>Federal government pays for CARES Act UI programs through federal funds.</p>  | <p><u>Funding:</u><br/>States pay for traditional UI programs through taxes</p>  |

*\*Compiled from GAO publication 23-10523 (Government Accountability Office, 2023)*

The responsibilities of the federal government in UI program administration are to create program parameters, provide partial funding, give program guidance, and oversee state agency compliance. State UI programs administrators design UI programs within their state, comply with federal parameters, establish benefit amounts and eligibility, and provide partial funding for programs through taxes (Government Accountability Office, 2023). Table 1 illustrates the roles in program design, administration, compliance and funding divided between state and federal agencies. The division of programmatic responsibilities show that the federal examination and response to UI problems must consider the states and vice versa.

## **L2. The U.S. Government Response**

After the initial announcement of the CARES Act, the U.S. Department of Labor released several program letters to clarify Federal expectations on the implementation of the unemployment insurance (UI) provisions. These are summarized in Figure 2 to illustrate what federal guidance was given, and when.

The timeline of program letters with their topics summarized shows the U.S. Federal Government anticipated the need for expanded UI programs before Covid-19 pandemic impacts were widespread in the United States. This is apparent from UIPL No. 10-20, released on March 3, 2020, which gave guidance to the states to allow for flexibility related to Covid-19 (Department of Labor). The Trump administration would declare a national state of emergency ten days later followed by subsequent Federal and state mandated business shutdowns. The CARES Act was signed into law March 27<sup>th</sup> and at that time states faced political pressure to promptly address a rapid spike of unemployment claims following mandated shutdowns. At the same time, DOL continued to issue program letters establishing benefits through April of 2020 and beyond to establish and clarify state responsibilities. For example, on April 2, 2020, UIPL 14-20 provided a summary of UI provisions enacted by the CARES Act, while the first change letter- UIPL 14-20, Change 1, which provided states with technical assistance and Q&A, was not issued until August 2020 (Department of Labor).

As CARES Act UI programs were implemented, information released by DOL continued to refine how supplemental UI programs should be run and what states' obligations to the public were in taking those funds. The first change to UIPL 16-20, for example, is a lengthy document with clarification on the PUA program including details about who is eligible and what states are obligated to communicate to eligible recipients.

## Figure 2. Unemployment Insurance Program Letters (UIPL) Related to Covid-19 Measures

### March-May 2020

- March 3, 2020- (UIPL No. 10-20) Unemployment Insurance guidance to states allowing flexibility related to Covid 19
- March 13, 2020 -The Trump Administration declared a nationwide emergency<sup>1</sup>
- March 15, 2020 -States begin to implement shutdowns in order to prevent the spread of COVID-19.
- March 19, 2020- (UIPL 11-20) Disaster Unemployment Assistance (DUA) says KY rate is \$193. in Kentucky- 50% of average weekly payment in the state. These figures are to be updated quarterly.
- March 22,2022 (UIPL 13-20) Provided instructions for states to Implement Families first Coronavirus Response Act. EUISSA Emergency Unemployment insurance Stabilization and Access Act which authorizes emergency flexibility in administration of Unemployment Compensation
- The CARES Act was signed into law on March 27, 2020 (US Department of the Treasury, n.d.).
- April 2, 2020 (UIPL 14-20) Summary of key UI provisions in CARES Act and guidance on flexible emergency state staffing flexibility.
- April 4, 2020 (UIPL 15-20 CARES Act FPUC Program operating, financial and reporting instructions. States need to ensure program integrity, eligibility dates for \$600 supplemental FPUC payments starting in March April 2020 through July 26, 2020. Implementation costs including computer programming, training and travel and business process updates are federally funded.
- April 5, 2020 (UIPL No. 16-20) CARES PUA Program Operating, financial and Reporting Instructions
- April 10, 2020 (UIPL 17-20) CARES PEUC Program operating, financial and reporting instructions
- April 27, 2020 UPIPL 16-20 Change 1, a 25- page document that includes a comprehensive Q&A regarding program administration of PUA
- April 29, 2020 (UIPL 19-20) Provides procedure for UI Benefit Accuracy Measurement (BAM) data and compliance with Improper Payment Information Act for reporting in reporting year 2020. (did these apply to CARES?)
- April 30, 2022- (UIPL No. 20-20). CARES Act operating, financial and reporting instructions for the first week of unemployment compensation in states with no waiting week.
- May 3, 2020- (UIPL No. 21-20) CARES Act Short-Time Compensation Program Provisions
- May 9, 2020 (UIPL No. 15-20, Change 1) CARES Act FPUC Program Reporting Instructions and Q&A
- May 10, 2020 (UIPL 22-20)- CARES Act Short Time Compensation Program Grants
- May 11, 2020 (UIPL 02-16, Change 1) Details State's responsibilities for ensuring access to UI benefits and information.
- May 13, 2020 (UIPL No.17-20, Change 1) CARES Act PEUC Q&A and revised reporting instructions.

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<sup>1</sup> Historical dates not linked to UIPL's were taken from the CDC Museum <https://www.cdc.gov/museum/timeline/covid19.html>

Unfortunately, the federal response was not fast enough or well-enough organized and there were significant weaknesses to the implementation and design of emergency unemployment insurance programs. These weaknesses left the system vulnerable to inefficiencies and waste. Consequently, as states started to implement emergency UI programs, they became attractive targets for fraud.

### **L3. Fraud**

The U.S. Government Accountability Office (2023) shows improper UI payments have been a long-standing issue but that fraud was exacerbated during the Covid-19 pandemic. The term “improper payments” includes funds received through an act of fraud or deception but may also refer to funds paid improperly for other reasons. For example, improper payments would include payments made in incorrect amounts or payments made to individual who were no longer entitled to them. In Kentucky, some payments made to recipients who were no longer eligible occurred because of the misuse of autopay (Kentucky Auditor of Public Accounts, 2020).

The relationship between CARES Act UI programs and fraud can be observed by looking at the rate of improper payments reported prior to 2020 and then during 2020 when the pandemic occurred. On the national level, estimated improper UI payments in the three years prior to the pandemic ranged from 10.6% to 13.1%. Then, in fiscal year 2021, which spanned from October 1, 2020 until September 30, 2021, the estimated improper payment rate was 18.9%. The rate is based on states reporting improper payments to traditional UI programs and did not include CARES Act UI payment statistics, so reported estimates span a large range from \$60 billion to \$163 billion. However, even estimates on the lower end indicate a sizable, national public policy concern.

The dollar estimate of fraudulent payments specific to CARES Act UI programs in Kentucky was not found in the literature surveyed so I estimate this figure by applying the federal UI fraud rate of 18.9% to KY unemployment funds granted through CARES. Combined PUA, FPUC and PEUC allocations to Kentucky were \$5.67 billion, as shown in figure 3, which shows CARES Act funding allocations broken

down by state (U.S. Department of Labor Employee & Training Administration, n.d.). Based on this information, I estimate fraud in Kentucky to be over \$1 billion dollars. As a basis for comparison, the revenue estimate for the state of Kentucky in 2020 was approximately \$11.4 billion (Commonwealth of Kentucky, 2020).

Audits in Kentucky confirm incidences of fraud during this time. The 2020 statewide single audit found among a sample of 54 people who claimed to work for the Labor Cabinet, 13 people had fraudulent payments over \$20,000. Out of state claimants were another significant source of fraud. Auditors found that nearly half of the sample of out of state claimants were fraudulent and one fraudulent claimant had received over \$30,000. The Office of Unemployment Insurance had fraud detection controls but the Kentucky state auditor found that the controls were relaxed or not fully implemented which allowed the fraudulent payments to be made (Vancampen, 2022).

The impact of fraud extended beyond federal and state agencies, it also directly affected consumers and citizens who became victims of identity theft so others could perpetrate fraud using stolen identities. On September 21, 2020 the U.S. Department of Justice National Unemployment Insurance Fraud Task Force issued a Consumer Protection guide to help those who suspect someone may have stolen their identity in order to make unemployment claims. The guide included resources by state as well as link information for the National Center for Disaster Fraud (U.S. Department of Justice, 2020).

### Figure 3. CARES Funding Amounts

Families First Coronavirus Response Act and Coronavirus Aid, Relief, and Economic Security (CARES) Act Funding to States through Oct 8, 2022. Excerpted from the U.S. Department of Labor website (n.d.)

|                      | EUISSAA          | Pandemic Unemployment Assistance (PUA) | Emergency Relief for government entities and non-profits | Federal Pandemic Unemployment Compensation (FPUC) | Temporary Full funding of First Week of Regular Compensation | Pandemic Emergency Unemployment Compensation (PEUC) |
|----------------------|------------------|--|--|---|--|---|
| South Dakota         | \$ 2,536,508     | \$ 20,970,908                          | \$ 4,509,316   | \$ 234,113,564                                    | \$ 8,930,500   | \$ 11,870,156                                       |
| Wyoming              | \$ 1,774,804     | \$ 26,488,913                          | \$ 4,418,456   | \$ 254,458,878                                    | \$ -   | \$ 48,069,025                                       |
| Virgin Islands       | \$ 174,810       | \$ 33,521,940                          | \$ 727,480   | \$ 110,588,440                                    | \$ 2,641,660   | \$ 27,490,613                                       |
| North Dakota         | \$ 2,411,008     | \$ 71,745,942                          | \$ 13,370,088  | \$ 563,186,673                                    | \$ -   | \$ 144,796,117                                      |
| Alaska               | \$ 2,090,135     | \$ 73,913,860                          | \$ 14,983,501  | \$ 739,240,397                                    | \$ -   | \$ 149,129,322                                      |
| Nebraska             | \$ 6,072,645     | \$ 81,889,831                          | \$ 17,977,665  | \$ 828,782,897                                    | \$ 18,609,007  | \$ 62,645,697                                       |
| Utah                 | \$ 9,809,925     | \$ 85,780,985                          | \$ 13,287,868  | \$ 1,072,432,704                                  | \$ 25,145,976  | \$ 202,140,969                                      |
| Delaware             | \$ 3,061,041     | \$ 126,848,000                         | \$ 11,123,269  | \$ 773,523,100                                    | \$ 21,503,729  | \$ 179,754,000                                      |
| Idaho                | \$ 4,389,811     | \$ 129,485,396                         | \$ 9,325,326   | \$ 731,343,836                                    | \$ 10,829,100  | \$ 96,896,333                                       |
| Kentucky             | \$ 12,568,702    | \$ 135,386,811                         | \$ 58,830,991  | \$ 5,019,738,583                                  | \$ 102,958,422   | \$ 517,681,372                                      |
| Montana              | \$ 2,678,938     | \$ 165,014,493                         | \$ 4,946,630   | \$ 802,620,916                                    | \$ 19,267,382  | \$ 88,052,124                                       |
| West Virginia        | \$ 4,391,023     | \$ 168,264,113                         | \$ 20,459,881  | \$ 1,362,536,414                                  | \$ 49,818,000  | \$ 192,160,235                                      |
| District of Columbia | \$ 4,325,949     | \$ 179,730,637                         | \$ 29,586,530  | \$ 1,378,949,296                                  | \$ 30,057,973  | \$ 389,875,291                                      |
| New Hampshire        | \$ 4,472,551     | \$ 184,045,467                         | \$ 11,460,234  | \$ 1,157,057,011                                  | \$ 35,956,235  | \$ 79,740,687                                       |
| Vermont              | \$ 1,837,515     | \$ 191,809,617                         | \$ 28,200,573  | \$ 891,208,888                                    | \$ -   | \$ 165,620,925                                      |
| Kansas               | \$ 9,531,044     | \$ 208,756,525                         | \$ 157,257,179   | \$ 1,551,070,747                                  | \$ -   | \$ 282,251,416                                      |
| Oklahoma             | \$ 10,963,616    | \$ 263,727,184                         | \$ 69,291,110  | \$ 2,637,985,269                                  | \$ 118,991,897   | \$ 671,480,040                                      |
| Maine                | \$ 3,835,381     | \$ 279,597,668                         | \$ 40,587,195  | \$ 1,459,721,415                                  | \$ 1,706,451   | \$ 249,449,428                                      |
| Iowa                 | \$ 10,053,959    | \$ 342,431,529                         | \$ -   | \$ 2,100,785,000                                  | \$ 89,090,770  | \$ 381,594,045                                      |
| Alabama              | \$ 12,731,537    | \$ 352,055,200                         | \$ 13,457,264  | \$ 3,097,214,650                                  | \$ -   | \$ 727,379,255                                      |
| Wisconsin            | \$ 18,914,772    | \$ 353,703,914                         | \$ 101,313,583   | \$ 3,860,376,456                                  | \$ 73,059,643  | \$ 549,449,313                                      |
| Mississippi          | \$ 7,142,769     | \$ 408,799,689                         | \$ 24,342,316  | \$ 2,912,380,189                                  | \$ 46,630,503  | \$ 256,492,390                                      |
| Arkansas             | \$ 8,012,866     | \$ 456,979,034                         | \$ 19,556,173  | \$ 2,231,315,361                                  | \$ 14,550,628  | \$ 193,832,455                                      |
| New Mexico           | \$ 5,263,473     | \$ 481,296,692                         | \$ 37,743,825  | \$ 2,238,543,747                                  | \$ 41,729,639  | \$ 549,706,667                                      |
| Missouri             | \$ 18,388,111    | \$ 542,381,330                         | \$ 31,719,972  | \$ 3,956,315,092                                  | \$ 47,519,587  | \$ 527,642,111                                      |
| South Carolina       | \$ 14,338,105    | \$ 548,147,285                         | \$ 37,657,072  | \$ 3,862,362,707                                  | \$ 88,692,717  | \$ 686,979,230                                      |
| Connecticut          | \$ 11,908,187    | \$ 659,778,696                         | \$ 198,339,841   | \$ 5,142,540,633                                  | \$ 151,519,083   | \$ 1,138,021,092                                    |
| Rhode Island         | \$ 3,276,983     | \$ 670,672,965                         | \$ 28,236,379  | \$ 1,965,322,820                                  | \$ 65,083,597  | \$ 287,734,423                                      |
| Tennessee            | \$ 19,661,844    | \$ 675,885,763                         | \$ 40,826,272  | \$ 4,903,318,439                                  | \$ 104,657,328   | \$ 459,951,197                                      |
| Hawaii               | \$ 3,939,342     | \$ 734,596,196                         | \$ 39,563,623  | \$ 2,609,223,894                                  | \$ 59,789,017  | \$ 969,326,402                                      |
| Louisiana            | \$ 12,708,754    | \$ 1,006,785,680                       | \$ 7,963,562   | \$ 6,231,995,331                                  | \$ 76,858,660  | \$ 568,087,314                                      |
| Minnesota            | \$ 19,626,869    | \$ 1,009,678,400                       | \$ 255,882,732   | \$ 6,902,555,700                                  | \$ 177,948,019   | \$ 1,985,955,408                                    |
| Oregon               | \$ 12,676,291    | \$ 1,073,110,183                       | \$ 106,775,106   | \$ 5,264,138,913                                  | \$ 128,935,757   | \$ 1,357,012,149                                    |
| Puerto Rico          | \$ 4,397,537     | \$ 1,118,674,509                       | \$ -   | \$ 7,223,135,098                                  | \$ 9,861,127   | \$ 484,045,574                                      |
| Nevada               | \$ 10,684,454    | \$ 1,345,657,454                       | \$ 63,248,286  | \$ 6,242,591,090                                  | \$ 194,596,384   | \$ 1,447,122,921                                    |
| Indiana              | \$ 20,538,609    | \$ 1,398,443,314                       | \$ 164,265,813   | \$ 6,396,477,896                                  | \$ 152,683,858   | \$ 711,401,670                                      |
| North Carolina       | \$ 30,371,420    | \$ 1,448,573,000                       | \$ -   | \$ 8,262,328,000                                  | \$ 104,993,701   | \$ 1,896,287,000                                    |
| Virginia             | \$ 26,809,573    | \$ 1,991,842,696                       | \$ 141,730,160   | \$ 8,079,673,079                                  | \$ 158,579,692   | \$ 1,099,225,649                                    |
| Washington           | \$ 23,720,074    | \$ 2,538,174,647                       | \$ 236,527,349   | \$ 9,577,240,443                                  | \$ 335,173,424   | \$ 2,672,715,702                                    |
| Colorado             | \$ 20,228,385    | \$ 2,583,854,900                       | \$ 67,129,422  | \$ 4,696,299,057                                  | \$ 267,093,126   | \$ 1,538,987,006                                    |
| Arizona              | \$ 19,144,750    | \$ 2,714,468,563                       | \$ 59,412,439  | \$ 8,747,639,388                                  | \$ -   | \$ 756,308,825                                      |
| Georgia              | \$ 31,964,147    | \$ 2,934,323,789                       | \$ 193,110,411   | \$ 12,377,295,157                                 | \$ 240,265,261   | \$ 2,024,080,694                                    |
| Florida              | \$ 59,434,879    | \$ 3,088,174,690                       | \$ 132,709,699   | \$ 17,271,436,226                                 | \$ 412,953,682   | \$ 4,995,200,510                                    |
| Maryland             | \$ 16,784,142    | \$ 3,947,623,393                       | \$ 100,845,591   | \$ 7,902,258,502                                  | \$ 92,722,979  | \$ 1,108,876,972                                    |
| Illinois             | \$ 41,979,368    | \$ 4,557,495,469                       | \$ 323,467,707   | \$ 17,236,506,994                                 | \$ -   | \$ 4,125,025,708                                    |
| Ohio                 | \$ 35,125,882    | \$ 5,124,870,052                       | \$ 147,663,052   | \$ 12,432,687,647                                 | \$ 224,339,314   | \$ 1,830,681,306                                    |
| Texas                | \$ 88,287,797    | \$ 5,729,883,815                       | \$ 232,104,158   | \$ 26,091,895,801                                 | \$ 616,760,796   | \$ 6,819,209,152                                    |
| Massachusetts        | \$ 25,754,698    | \$ 5,912,209,887                       | \$ 317,185,678   | \$ 14,537,937,426                                 | \$ 241,773,910   | \$ 5,775,905,266                                    |
| Michigan             | \$ 29,109,491    | \$ 6,101,379,676                       | \$ 196,018,915   | \$ 22,160,737,710                                 | \$ 226,858,157   | \$ 2,971,875,318                                    |
| New Jersey           | \$ 29,506,949    | \$ 6,135,401,709                       | \$ 242,543,661   | \$ 15,798,400,730                                 | \$ 298,220,391   | \$ 4,230,973,732                                    |
| Pennsylvania         | \$ 37,864,557    | \$ 10,977,270,308                      | \$ 351,770,083   | \$ 24,554,698,549                                 | \$ 293,696,357   | \$ 3,928,845,458                                    |
| New York             | \$ 64,751,714    | \$ 17,763,730,536                      | \$ 666,373,449   | \$ 51,893,616,446                                 | \$ 362,638,182   | \$ 10,267,653,281                                   |
| California           | \$ 117,972,306   | \$ 32,190,832,237                      | \$ 1,228,196,360   | \$ 88,330,318,500                                 | \$ 1,639,369,833   | \$ 12,207,791,529                                   |
| National Total       | \$ 1,000,000,000 | \$ 131,346,165,492                     | \$ 6,318,023,245   | \$ 448,660,121,699                                | \$ 7,485,061,452   | \$ 85,090,480,474                                   |

## **L4. Problems with CARES UI Implementation**

System weaknesses have contributed to the UI system's failures to serve unemployed workers and safeguard program funds from fraud. System weaknesses include unprocessed claims, poor access, and disparities in benefit distribution (Government Accountability Office, 2023). Causal factors contributing to these program weaknesses can be broken down into four main categories: outdated IT systems, program design deficiencies, insufficient funding, insufficient staffing (Government Accountability Office, 2022). These weaknesses generally pre-date the pandemic but they caused more during the pandemic and created an environment that was more vulnerable to inefficiencies and financial losses. In the following section, the main causal factors of program inefficiencies will be expanded upon and examined from the federal and state levels with a focus on their occurrence in Kentucky.

### **L4a. Program Staff**

The combination of new federal UI programs and increased volume of unemployment claimants during the COVID-19 pandemic contributed to the increased the risk of unemployment fraud<sup>2</sup>. Staff were Reduced staff due to prior reductions combined with reduced capacity from social distancing rules caused difficulties in maintaining program integrity while slowing down payments. UI program staff were increased in May 2020 with the addition of approximately 1,000 new employees to address the spike in claims volume but the measure was not immediately successful in addressing the frustrations of claimants, nor could the new employees quickly clear the backlog of over 50,000 claims (Glowicki, 2020).

### **L4b. Technology**

Computer systems were central to the operations of unemployment insurance programs and consequently, failures in information technology systems were a key vulnerability that allowed fraud.

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<sup>2</sup>( Bittenbender, 2021); (Ryle, 2021); (O'Neil, 2021);

Kentucky audits identified issues with improper permissions for access and system security, inadequate automated fraud interventions, and failures of existing technology to handle the processing enough web-based claims to prevent backlog. System security findings in Kentucky included issues in which Kentucky unemployment insurance office employees were able to access and manipulate their own claims and that the Kentucky Electronic Workplace for Employment Services System was not adequately secured to protect claimant's personal information (Harmon, 2021).

The 2021 Michigan state audit also found that confidential information was not being properly restricted in its SIGMA computer system. This problem pertained to data in the Michigan Department of Health and Human Services and Department of Labor and Economic Opportunity. Furthermore, in Michigan, user roles were not secured and insufficient limitations to access the Bridges system were present which provided opportunity for inappropriate changes and data breach (State of Michigan State Budget Office, 2022).

#### **L4c. Program Design/ Controls**

Without sufficient staff and technological resources, the Kentucky Office of Unemployment Insurance (OUI) relaxed some program controls to allow claims to process. In May 2020, the estimated backlog was approximately \$65,000 (Glowicki,2020). For example, in order to pay a significantly increased volume of claims as quickly as possible to assist people who suddenly lost their income, the Kentucky OUI determined that anyone who applied for PUA benefits, and was deemed eligible, would receive the minimum PUA of \$176 per week rather than taking time to do the proper eligibility screenings. However, this decision by Kentucky OUI leadership violated federal law (Kentucky Auditor of Public Accounts, 2020).

OUI management also decided to permit Auto-Pay to help alleviate the back-log. This allowed unemployment insurance benefits to be automatically paid without requiring claimants to report wage information needed to determine eligibility for benefits. Auto-Pay was in effect for two weeks for traditional UI and eight weeks for PUA. Auto-Pay contributed to improper payments to ineligible



individuals who had lost a job but still had other employment and to claimants who had found work since their initial claim.

From the perspective of preventing fraud, the decisions OUI management made to relax controls may seem irresponsible, however the large volume of unprocessed claims created a risk as well. The mounting number of unprocessed initial jobless claims in Kentucky totaled approximately 80,000 in October of 2020. According to the 2020 Kentucky annual financial audit, slow response to jobless claims skewed unprocessed claims estimates which impacted the reliability of accounts payable balances reported on the unemployment insurance fund (Kentucky Auditor of Public Accounts, 2020).

In Michigan, problems with internal financial controls were also discovered in the 2021 financial audit of the Unemployment Compensation fund. The audit found that some payments had been made from the federally funded PUA and PEUC programs when they should have been paid from traditional state unemployment funds (Andrews Hooper Pavlik, 2022).

#### **L4d. Obstacles to CARES UI Implementation Unique to Kentucky**

The literature indicates that Kentucky faced similar obstacles and shared common circumstances with other states in administering CARES UI programs. However, there were some conditions in Kentucky that put it at a comparative disadvantage. For example, Kentucky has had historically high unemployment with the 13<sup>th</sup> highest statewide unemployment in 2019 (U.S. Bureau of Labor Statistics, 2019). Additionally, Kentucky's UI system has had funding problems for over a decade. As recently as 2009, Kentucky owed almost \$1 billion to the federal government because it's UI system had inadequate funding to meet benefits owed (Pitts, 2015). This created a political climate that did not support needed investments into the infrastructure and administration of UI in Kentucky because tax revenues were being dedicated to replenishing the fund. The areas of staffing, technology, fraud and controls, summarized in Table 3, catalog examples of how Kentucky handled CARES UI program administration while drawing solutions used by other states or recommended by federal government sources. Some of the solutions presented may not make sense piecemeal in Kentucky, but rather inform a holistic policy solution.

Figure 4. CARES UI Programs Problems, Solutions and Outcomes in Kentucky p. 1of 2

| Obstacle  | Solution   | Evidence of Effectiveness  |
|---|--|--|
| <b>Staffing</b>   |  |  |
| Kentucky didn't have enough personnel to handle the increased claims  | States could contract with call centers to expand capacity during periods of high-volume claims in the way Montana and Nevada did (FEMA, 2020), (Office of Governor Steve Sisolak, 2020).        | Success was mixed. Positive outcomes occurred in Nevada where a vast majority of claims were already being addressed by online systems. In Kentucky, long waits were reported through 2021 (Charlton, 2021).   |
|   | Expand hours (FEMA, 2020)  |  |
| <b>Technology</b>   |  |  |
| Kentucky Electronic Workplace for Employment Services (KEWES) computer system in Kentucky is considered obsolete by many assessments, and insufficient to handle high volume and screening prescribed to safeguard against fraudulent claims. (O'Neil, 2021), (Associated Press, 2021). | Invest in upgrading computer systems to more modern technology for easier maintenance and improved scaling capacity (Associated Press, 2021).  | The Kentucky Cabinet of Education and Labor initiated the process of updating the KEWES system which was expected to take 3 years and cost \$40 million. (Associated Press, 2021)  |
| Security problems with the electronic workplace (finding 2021- 043) with in the Kentucky Office of Unemployment Insurance (finding 2021-022) caused vulnerabilities. (Harmon, 2022).  | Make computer systems and staffing solutions work together for maximum efficiency such as the call back system implemented in New York State (Federal Emergency Management Administration, 2020) | By September 2022, a vendor that was expected to enter into contract failed to sign the negotiated agreement. Two people affiliated with the company were indicted by a Federal grand jury at the same time. Kentucky had to begin the RFP (request for proposals) process again (Associated Press, 2022). |
|   | Help guides to facilitate user navigation and experience could be used following Arizona's example. (Federal Emergency Management Administration, 2020).   |  |
|   | Use technology to facilitate remote call center claims processing- this expands labor pool outside local geographic area (FEMA, 2020)  |  |

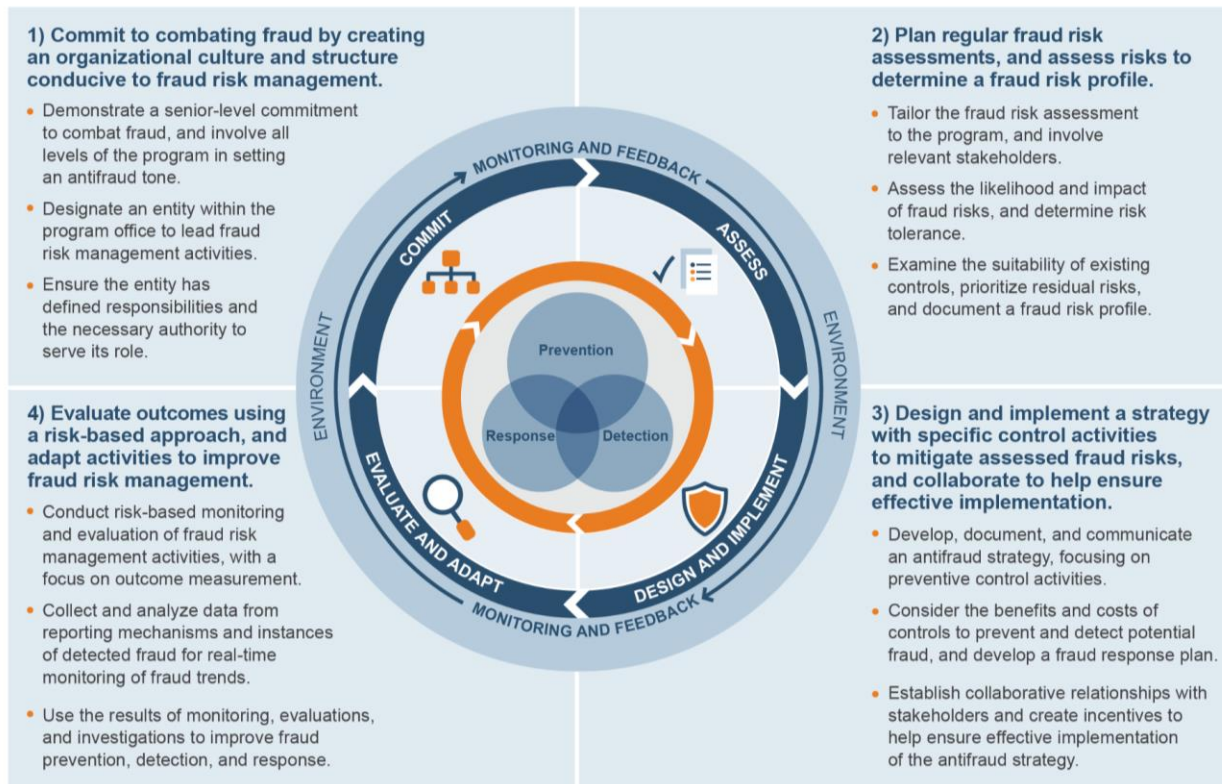
Figure 4. CARES UI Programs Problems, Solutions and Outcomes in Kentucky p. 2 of 2

| Obstacle  | Solution   | Evidence of Effectiveness   |
|---|--|---|
| <b>Fraud</b>  |  |   |
| <p>Fraudulent claims clog the KY unemployment system (O’Neil, 2021).</p>  | <p>Fraud was a nationwide problem that previously existed in the UI system. The solution includes investment by individual states in their programs (staff, technology) and tightening of controls on both the state and federal levels.</p> | <p>See evidence of effectiveness for controls, technology and staff</p>   |
|   | <p>Implementation of the fraud risk framework developed and recommended by the Government Accountability Office (2023).</p>  | <p>The fraud risk framework was developed by the U.S. Government Accountability Office in consultation with three focus groups of antifraud experts from public and private organizations both domestically and internationally. It identifies leading practices and conceptualizes them to assist program managers in addressing and controlling fraud risks (2015).</p> |
| <b>Controls</b>   |  |   |
| <p>Incorrect payments were made to claimants including payments to eligible claimants in the <i>wrong amounts</i> or payments to <i>ineligible claimants</i> (Harmon, 2021).</p>  | <p>States are using tools to cross check self-certifications such as documentation of wages, social security records, DMV records and other government databases (Pandemic Response Accountability Committee, 2022)</p>                      | <p>Kentucky had cross check systems in place but had to relax standards in order to process claims in a timely manner to compensate for delays caused by technology and staffing inadequacies.</p>  |
| <p>Data security controls were insufficient because Office of Unemployment Insurance employees were able to access and manipulate claims, including their own (Harmon, 2020).</p> | <p>Implement/ Update a data management plan to address IT system weaknesses (Harmon, 2020).</p>  | <p>Data management plans are common practice in their effectiveness is widely accepted. (Massachusetts Institute of Technology, n.d.).</p>  |
| <p>States complained that ETA did not provide clear guidance in a timely manner pertaining to eligibility (Pandemic Response Accountability Committee, 2022)</p>                  | <p>Implement more robust UI system with more modern technology, more scalable staffing and improved controls so the system is stronger and better prepared for crisis.</p>   | <p>Better preparation from other states in the areas of staffing and technology demonstrated improved outcomes in CARES Act UI programs</p>   |

## L5: Solutions to Improve UI Program Administration

The problem of fraud related to emergency Unemployment Insurance programs is a complicated one that cannot be easily addressed by making improvements to individual system components identified in the literature. For example, the adequacy of staff is influenced by the information technology systems the staff has to depend upon. Therefore, reducing risk effectively necessitates a holistic solution. The Office of Management and Budget recommends federal agencies including the Department of Labor (DOL) should implement a fraud risk management framework. The fraud risk framework recommended by the Government Accountability Office (GAO) includes four main directives: commit, assess, design/implement, evaluate and adapt (2023).

**Figure 5. The Four Components of the Fraud Risk Framework and Selected Leading Practices.**  
 Excepted from GAO -23-106586 (Government Accountability Office, 2023)



The fraud risk framework should be implemented by the Department of Labor in conjunction with the states to address the problem of fraud in the UI system. The components of the fraud risk framework involve making an intuitional commitment to fraud risk management, planning and executing regular assessments, design and implementation activities to address assessed risks, and program evaluation. Currently the Department of Labor has worked on adding control and monitoring activities but it has not adopted a complete fraud risk framework as GAO has suggested. In the following section, I will discuss solutions to the problems identified with in the UI program at the state and federal levels and discuss how they fit into the fraud risk framework.

### **L5a. Staffing**

It may seem obvious to suggest UI programs should address a staffing shortage by hiring more staff. However, it can be difficult to justify permanent hires once emergency conditions subside. Nevada, had a 3,887% increase in unemployment claims from 2019 to April 2020. It addressed its unemployment rate spike by outsourcing customer service work to a company that utilized remote work. This allowed increased claim capacity and a continuation of operations during a time when government and business shutdowns prevented people from safely working on-site. Nevada also relied heavily on web-based claims processing. According to Nevada Governor, Steve Sisolak, 96% of initial claims were filed online successfully (Office of Governor Steve Sisolak, 2020).

In Kentucky, the backlog of claims was also addressed through outsourcing labor, though the solution wasn't immediate. Kentucky unemployment call center capacity was increased to help address the initial spike in unemployment claims volume by adding approximately 1,000 new customer service representatives in May 2020 (Glowicki, 2020), however reports of lengthy waits for claimants caused by an inefficient UI system persisted (Charlton, 2021). Governor Andy Beshear proposed addressing the long-term staffing shortage by restoring 90 jobs and \$18 million in funds to the state unemployment insurance program which had been cut by the previous administration (Bittenbender, 2021).

The fraud risk management framework could provide support in assessing staffing needs and the risks associated with various solutions. The commitment and direction from a federal entity may even out some of the fluctuation in staffing from changing administrations based on the political inclinations of the party in charge. Important issues to consider are whether a plan can be designed to help temporary staff be effective in assisting with complex UI program rules with only a short timeframe. The agency could also address the security risks of having remote temporary call center workers to quickly scale up and weigh these against the potential benefits of reducing or preventing a backlog of claims.

### **L5b. Technology**

Findings in both Michigan and Kentucky indicated that confidential information was not properly secured in those states' UI programs. These findings demonstrated a general need for states to examine database security management and access controls. Where deficiencies are found, information technology controls would need to be improved. For example, in Michigan, corrective action included a database security application and increased user access reporting and monitoring. Automated removal of access was supposed to keep the permissions of verified users current and allow only those who authenticate their credentials. In Michigan, automated override is supposed to be fully implemented by August 2023 according to the Statewide single audit correction plan published in September 2022 (State of Michigan State Budget Office, 2022).

In Kentucky, technological improvements to the KEWES system were planned with an anticipated cost of \$40 million and work was planned to take two to three years to complete (Associated Press, 2021). The state had negotiated a contract with a vendor to build a new unemployment system with more modern functionality but at the last minute the vendor failed to sign the negotiated agreement and to-date a new system has not been created (Associated Press, 2022).

Planning for Kentucky information technology improvements in the context of the fraud risk management framework might include leadership and possibly funding from a risk management authority within the Department of Labor to support needed system upgrades at the state level. Regular fraud

assessments prescribed in the fraud risk management framework would alert leaders to the need for improvements, rather than having a disaster draw attention to a problem that can no longer be ignored. It's possible that if a risk management office existed within the Department of Labor, there would be some guidance there for outlining IT system specifications and negotiating contracts so that negotiations would have a greater likelihood of being successful. The risk management framework would also provide an opportunity to assess and improve new or existing IT systems through program evaluations.

### **L5c. Control Recommendations**

Signs of implementing a risk management framework are most apparent in the Department of Labor (DOL) response to controls. The DOL (2023) took steps during the Covid-19 pandemic to mitigate the risk of fraud by providing additional guidance, tools and funding. In particular, Program Letter (UIPL 28-20) provided specific language about states roles and responsibilities in preventing and managing fraud. The document also provided resources for recovering fraudulent payments and overpayments. Identity verification through a combination of sources is listed among the recommendations. The Integrity Data Hub (IDH) was created as a tool to help states verify claims. Resources included in the IDH are social security administration cross matching, systematic alien verification for entitlement to verify entitlement for resident aliens, incarceration cross matches, use of the Interstate Connection Network to prevent applicants from applying for benefits in multiple states, Internet Protocol (IP) address tracking and data analytics to identify patterns and suspicious activity. The IDH example demonstrates a commitment to fraud prevention from leadership and the presence of strategic planning.

In California, an early commitment was made on the state level to address the risk of fraud which is consistent with the first objective of the fraud risk management framework. In August 2020 California State Auditor Elaine Howle designated all COVID-19 federal funding as high risk and identified the need to strengthen controls. According to Ms. Howle's report, the high-risk designation was given because: a large amount of funding was involved, there was a shortened timeframe for implementation, there were existing weaknesses with program administration responsible for new federal COVID-19 funds such as

prior audit findings, and complications existed with altering program eligibility requirements (Howle, 2020).

On the federal level, the Government Accountability Office flagged unemployment insurance programs for improved controls when it classified UI programs as high risk in June 2022.

The high-risk program identifies and resolves, “serious weaknesses in areas that involve substantial resources and provide critical services to the public.” (U.S. Government Accountability Office, n.d.).”

## **L6. Prosecution**

An important part of the response to Covid-19 fraud has been prosecution. The Department of Justice initially established measures to prevent fraud upon the implementation of the CARES Act relief provisions and more recently it has supported efforts to recover funds paid fraudulently. On March 26, 2021, nearly a year after the passage of the CARES Act, the Department of Justice had publicly charged 474 defendants for crimes defrauding COVID-19 relief programs (2021).

Recovery of funds depends on cooperation with states. Additionally, the False Claims Act facilitates efforts to work with whistleblowers to prosecute UI fraudsters. The False Claims Act,

“...permits private citizens with knowledge of fraud against the government to bring a lawsuit on behalf of the United States and to share in any recovery.” (Department of Justice, 2021).

According to the Department of Justice, whistle blowers have been a helpful source of leads to prosecute the misuses of federal taxpayer funds. It is hopeful that with a multi-pronged approach, some of the billions of dollars lost to UI program fraud can be recovered



## **Recommendations/ Conclusions**

Mitigating the cost of fraud alone is a significant incentive to address unemployment insurance system weaknesses and tighten controls. The literature has shown that among the \$2.2 trillion the CARES Act authorized (U.S. Department of Justice, 2021), Kentucky received \$5.8 billion. Among those \$5.8 billion, an estimated \$1 billion may have been lost to fraud in Kentucky. In addition to the dollar cost of actual payments, citizens have born significant personal and financial costs that may never be calculated. Individuals coped with delayed payments, mismanaged tax dollars and the costs of recovering from identity theft that took place at the hands of fraudsters. The consequences of unemployment insurance system weaknesses also mean that program effectiveness is reduced. Intended and entitled beneficiaries are unable to benefit from a UI program that is overly complicated, poorly communicated and inaccessible.

To conclude, I revisit my original research questions:

- 1) Did Kentucky policymakers make changes in policy and emergency protocols to secure greater capacity for claims through technological improvements, workforce flexibility, and dedicating financial resources to funding unemployment insurance programs.***

Based on the literature, unfortunately the answer is not yet. While efforts were made to address the existing crisis, the IT system remains unchanged, Kentucky has not funded new positions in UI program administration, and the literature survey did not reveal any significant spending bills for the UI program.

- 2) How will investing in the Kentucky Unemployment system in the near-term benefit Kentuckians in the long term?***

The Department of Labor has recognized a clear need for investment in the UI system. As such It has designated \$865 million in funding to improve UI programs (US Department of Labor, 2020). Kentucky has committed to investing in its UI IT system because doing so will improve program efficiency

and safeguard funds against fraud. If Kentucky had already invested the \$40 million it has committed in upgrading its UI IT system, one might ask how much of the estimated \$1 billion in CARES Act UI fraud would have been prevented? The literature presents a clear case for realizing savings and program benefit through investment, however, the details of IT program improvements must be carefully considered. Risk assessments, planning, and design of strategic control activities outlined in the GAO fraud risk management framework would help inform investment so that tax-payer funds are used wisely.

***3) How, if at all, will politically motivated actions impact the risk that Kentucky tax dollars will be lost to fraud and mismanagement?***

As things currently stand, politically motivated actions are likely to impact program decisions that have an effect on the level of fraud risk. The choices of how much to spend on UI programs has been politically divided in Kentucky for decades, with Democrats advocating investment in the program and Republicans opposing unnecessary spending. Decisions about state spending will always be politically motivated to a point. However, the use of a fraud risk management framework, as the Government Accountability Office recommends, would help to depoliticize program decisions by providing additional facts and recommendations.

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