New Hire Reporting is the Better Solution for Detecting Benefit Fraud

Since 1997, states have been required to enforce New Hire Reporting ("NHR") laws.[1] Under the NHR regime, state after state has announced overpayment reductions in the 90% range.

In Illinois, IDES says that every employer is required to file a new hire report *within 20 days* of the employee's first day of work. The SMART Act enhanced the NHR requirement to also include the employee's *estimated monthly wages.* This reform will dramatically enhance efforts to root out overpayment and benefit fraud. *However*, it appears that the SMART Act's NHR requirement is being de-emphasized (and may be repealed) in favor of cumbersome and unreliable monthly wage matching.

The US Department of Labor made clear that NHR is universally acknowledged as the most effective solution ever devised for Unemployment Insurance integrity (fraud and overpayment detection); *far more effective than cross-matching against wage data*[2].

An earnings increase that is sufficient to change an individual's Medicaid eligibility is normally associated with *job changes*, not month-to-month wage increases while working for the same employer. For that reason alone, requiring monthly wage reports will do little to identify potential fraud.

Monthly Wage Data Will be Incomplete, but New Hire Reporting Applies to All Employers

- Monthly wage reporting will only initially apply to about 1% of employers
- 100% of Illinois employers are already required to report the hiring of new employees

New Hire Reporting Data is Available Much Sooner than Monthly Wage Reports

Focusing on "monthly" wage reports will only increase data availability by 30 days or less in 8 months out of the year. But, Illinois employers must report the hiring of new employees *within 20 days of the first day of work, or twice-monthly if filed electronically*. Example:

- Say an employee begins a new job on January 14, 2013.
- Typically a new employee works for two weeks in their initial pay period, in this case ending on January 25. Their first paycheck would be paid a week later, on February 1.
- The first monthly wage report for the new worker would be due to IDES on March 31.
- The New Hire Report for that same worker would be due on February 4 - ***- 55 days earlier*** - - and would likely be received even earlier than February 4 from twice-monthly electronic reporters.

A deadline of 20 days from hire date will always be faster than 30 - 60 days from a new employee's first pay date, given that the first pay date is generally be two to three weeks after the hire date/first day worked.

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[1] Title III of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PL 104-193).

[2] U.S. Department of Labor—Office of Inspector General; Unemployment Insurance Benefit Payment Control: New Hire Detection Is A Better Method For Establishing UI Overpayments Than The Wage/UI Benefit Crossmatch, September 30, 2004, (Report 05-04-002-03-315)

Arguments Against Focusing on New Hire Reporting Are Overstated

Compliance: It has been suggested that compliance in one state is only 30%. In fact, compliance with NHR is about generally around 70%. Importantly, most large employers use automated and outsourced NHR which drives up compliance. While smaller employers may not all comply, compliance with NHR is very easy to monitor. IDES only needs to compare each quarter's wage report to that of the prior quarter to identify who was not on the preceding wage report, and determine whether that person is on the NH registry. If not, IDES should send a warning letter, reminding the employer of the requirement and explaining UI cost savings available to the employer by reporting new hires. Compliance is an enforcement issue; not a policy argument.

To be sure, the U.S. Department of Labor studied employer new hire reporting compliance in 2004, and recommended improved management by the state agencies. The Federal Office of Child Support Enforcement even routinely identifies apparently noncompliant employers for follow-up by states. Few states appear to have taken action to reinforce new hire reporting, despite its proven value in improving program integrity.

Interestingly, in Idaho NHR compliance was estimated at only 30%, which is why the Idaho Department of Labor is: "Beefing up compliance with the new hire reporting law is part of a long-range plan by the department to crack down on benefit fraud and overpayments." Illinois should do the same; not focus on monthly wages and repeal the estimated wage reporting requirement of the SMART Act.

Multistate loophole?: While some multistate employers may try to avoid the estimated monthly wages requirement by reporting all new hires to another state, the National New Hire Directory advises IDES of the employers that have registered to use this option on a monthly basis. According to the Federal Office of Child Support Enforcement, *less than one percent of employers* nationwide have registered for the single state reporting option, of which only 368 are Illinois employers. In those cases, IDES still gets the NHR data and can follow up with those employers.

Earnings accuracy: Wouldn't actual monthly earnings be more accurate than initial employer estimates? The answer, for benefits eligibility purposes, is not necessarily. In many cases employer-provided estimates will be more accurate than "actual" monthly wages:

- Compensation is inherently volatile on a month-to-month basis, and
- any month's results may not be representative of an individual's average monthly or total annual earnings.
- Some months will also include spikes in non-cash compensation. Employers offer many types of taxable benefits that are added to the payroll system for reporting quarterly or annually, which can cause monthly earnings to vary dramatically.

Relying on "actual" monthly earnings could cause many *eligible* Medicaid recipients to be incorrectly identified as *ineligible*. DHFS will need to sift through thousands of false "hits" to identify workers that truly no longer qualify for public assistance.