

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**MOLLY J DAVID**  
Claimant

**MERCY HEALTH SERVICES – IOWA CORP**  
Employer

**APPEAL 18A-UI-02108-CL-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 11/26/17**  
**Claimant: Respondent (1R)**

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Iowa Code § 96.6(2) – Timeliness of Protest  
Iowa Code § 96.7(2)a(6) – Appeal from the Statement of Charges

**STATEMENT OF THE CASE:**

The employer filed an appeal from the Statement of Charges dated January 29, 2018, for benefits and interest through December 31, 2017. A hearing was scheduled for March 13, 2018. Claimant did not register for the hearing and did not participate. Employer participated through Angela Faber. Employer's Exhibits A and B were received.

**ISSUES:**

Is the employer's protest timely?  
Was the employer's appeal from the Statement of Charges timely?  
Is the Statement of Charges correct?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: On February 23, 2017, Iowa Workforce Development determined that employer's account number 104395 is a successor of employer's account number 313917. Claimant has earned wages paid under both account numbers, but was at all times working for the same employer.

Claimant filed a claim for unemployment insurance benefits with an original claim date of November 26, 2017. A notice of claim was sent to employer. The employer filed a protest on November 29, 2017, prior to the deadline. Employer protested on the basis that claimant resigned for the sole purpose of accepting other employment. Iowa Workforce Development did not issue a decision on whether claimant was eligible for benefits based on her separation from employment with employer. On December 28, 2017, employer called Iowa Workforce Development about the issue and was told that no fact finding interview was necessary and employer would not be charged for benefits.

On January 29, 2018, a statement of charges was sent to employer that included charges for claimant's benefits. Employer filed an appeal on February 9, 2018.

**REASONING AND CONCLUSIONS OF LAW:**

The first issue is whether employer's protest is timely. The administrative law judge concludes it is.

Iowa Code section 96.6(2) provides, in pertinent part:

2. Initial determination. A representative designated by the director shall promptly notify all interested parties to the claim of its filing, and the parties have ten days from the date of mailing the notice of the filing of the claim by ordinary mail to the last known address to protest payment of benefits to the claimant.

In this case, employer filed a protest in a timely manner. For some unknown reason, no decision was issued regarding claimant's eligibility for benefits and whether employer would be charged.

The issues regarding the Statement of Charges are moot until the issues of claimant's eligibility for benefits and employer's chargeability for benefits are determined.

**DECISION:**

The January 29, 2018, Statement of Charges is affirmed pending a determination on whether claimant is qualified to receive benefits and whether employer should be charged for those benefits.

**REMAND:** The issues of whether claimant's separation from her employment with employer to accept other employment disqualifies her from receiving benefits and whether employer (account formerly 313917 and now 104395) should be charged for those benefits are remanded to the Benefits Bureau of Iowa Workforce Development for an initial determination.

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Christine A. Louis  
Administrative Law Judge  
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Decision Dated and Mailed

cal/scn