

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**TAMARA H SMITH**  
Claimant

**APPEAL 20A-UI-15889-SC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**CITY OF WEST DES MOINES**  
Employer

**OC: 05/17/20**  
**Claimant: Respondent (4)**

Iowa Code § 96.6(2) – Timeliness of Protest  
Iowa Code § 96.7(2)a(6) – Appeal from the Statement of Charges  
Iowa Admin. Code r. 871-23.43(9)a – Combined Wage Claim Relief of Charges

**STATEMENT OF THE CASE:**

On October 30, 2020, City of West Des Moines (employer) filed an appeal from the notice of reimbursable benefit charges dated October 15, 2020, for the third quarter of 2020. No hearing was scheduled or held, as there was sufficient evidence in the appeal letter and administrative record to resolve the matter without testimony.

**ISSUES:**

Did the employer file a timely appeal from the notice of reimbursable benefit charges?  
Can the employer be relieved of charges on a combined wage claim?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: Tamara H. Smith (claimant) filed a combined wage claim for unemployment insurance benefits in the state of Texas effective May 17, 2020. Iowa Workforce Development (IWD) mailed a notice of wage transfer to the employer's address of record on May 26. The notice of wage transfer states the employer must file a protest within in ten days to have their account relieved of charges.

The employer received the notice within ten days and responded to IWD on May 31 via fax. According to the employer, the claimant voluntarily quit to move to another state. The employer's first notice that its account had not been relieved of charges was the receipt of the notice of reimbursable benefit charges mailed October 15, for the third quarter of 2020. The employer filed its appeal of that notice on October 30.



## REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the employer filed a timely appeal from the notice of reimbursable benefit charges. Whether benefits are allowed will be determined by the state of Texas, where the claimant filed the claim; regardless, the employer's account in the state of Iowa shall not be charged.

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.

Iowa Code section 96.7 provides, in relevant part:

Employer contributions and reimbursements.

7. Financing benefits paid to employees of governmental entities.

...

c. For purposes of this subsection, "governmental reimbursable employer" means an employer which makes payments to the department for the unemployment compensation fund in an amount equivalent to the regular and extended benefits paid, which are based on wages paid for services in the employ of the employer. Benefits paid to an eligible individual shall be charged against the base period employers in the inverse chronological order in which the employment of the individual occurred. However, the amount of benefits charged against an employer for a calendar quarter of the base period shall not exceed the amount of the individual's wage credits based upon employment with that employer during that quarter. At the end of each calendar quarter, the department shall bill each governmental reimbursable employer for benefits paid during that quarter. Payments by a governmental reimbursable employer shall be made in accordance with subsection 8, paragraph "b", subparagraphs (2) through (5).

...

8. Financing benefits paid to employees of nonprofit organizations.

...

b. Reimbursements for benefits paid in lieu of contributions shall be made in accordance with the following:

...

(4) The amount due specified in a bill from the department is conclusive unless, not later than fifteen days following the date the bill was mailed or otherwise delivered to the last known address of the nonprofit organization, the nonprofit organization files an application for redetermination with the department setting



forth the grounds for the application. The department shall promptly review the amount due specified in the bill and shall issue a redetermination. The redetermination is conclusive on the nonprofit organization unless, not later than thirty days after the redetermination was mailed or otherwise delivered to the last known address of the nonprofit organization, the nonprofit organization files an appeal to the district court pursuant to subsection 5.

(5) The provisions for collection of contributions under section 96.14 are applicable to reimbursements for benefits paid in lieu of contributions.

Iowa Admin. Code r. 871-26.4 provides, in relevant part:

2. An appeal from an initial decision concerning the allowance or denial of benefits shall be filed, by mail, facsimile, or e-mail, online, or in person, not later than ten calendar days, as determined by the postmark or the date stamp after the decision was mailed to the party at its last-known address and shall state the following:

- a. The name, address and social security number of the claimant;
- b. A reference to the decision from which appeal is taken; and,
- c. The grounds upon which the appeal is based.

3. Notwithstanding the provisions of subrule 26.4(2), a contributory employer, which has not previously received a notice of the filing of a valid claim for benefits, may appeal an individual's eligibility to receive benefits within 30 days from the mailing date of the quarterly statement of benefit charges.

4. Also notwithstanding the provisions of subrule 26.4(2), a reimbursable employer, which has not previously received a notice of the filing of a valid claim for benefits, may appeal an individual's eligibility to receive benefits within 15 days of the mailing date of the quarterly billing of benefit charges.

Iowa Admin. Code r. 871-23.43(9)(a) and (b) provide:

Combined wage claim transfer of wages.

a. Iowa employers whose wage credits are transferred from Iowa to an out-of-state paying state under the interstate reciprocal benefit plan as provided in Iowa Code section 96.20 will be liable for charges for benefits paid by the out-of-state paying state. No reimbursement so payable shall be charged against a contributory employer's account for the purpose of Iowa Code section 96.7, unless wages so transferred are sufficient to establish a valid Iowa claim, and such charges shall not exceed the amount that would have been charged on the basis of a valid Iowa claim. However, an employer who is required by law or by election to reimburse the trust fund will be liable for charges against the employer's account for benefits paid by another state as required in Iowa Code section 96.8(5), regardless of whether the Iowa wages so transferred are sufficient or insufficient to establish a valid Iowa claim. Benefit payments shall be made in accordance with the claimant's eligibility under the paying state's law. Charges shall be assessed to the employer which are based on benefit payments made by the paying state.



b. The Iowa employer whose wage credits have been transferred and who has potential liability will be notified that the wages have been transferred, the state to which they have been transferred, and the mailing address to which a protest of potential charges may be mailed. This protest must be postmarked or received by the department within ten days of the date on the notice to be considered as a timely protest of charges. If the protest from either the reimbursable or contributory employer justifies relief of charges, charges shall go to the balancing account.

Iowa Code section 96.7(2)a(6), which applies to contributory employers, provides guidance in the situation here, which deals with a reimbursable employer. It states that a contributory employer who did not receive notice of the claim may appeal to the department for a hearing to determine the eligibility of an individual to receive benefits following receipt of a statement of charges. While Iowa Code sections 96.7(7) and (8) which address reimbursable employers do not specifically state the reimbursable employers have appeal rights following the notice of reimbursable charges if they did not receive prior notice of the claim, Iowa Admin Code r. 871-26.4(4) allows for such an appeal.

The employer filed the appeal to the notice of reimbursable charges, the first notice it had that its account had not been relieved of charges, within fifteen days, making the appeal timely. Additionally, the employer filed its response to the notice of wage transfer within the allotted ten days, and any delay in processing that response was due to IWD.

The employer has provided sufficient information regarding the separation to be relieved of charges on this combined wage claim since it would have been relieved of charges based upon this fact scenario on an Iowa claim. (See Iowa Code § 96.5(1) and Iowa Admin. Code r 871-24.25(2), which state a claimant will not be eligible for unemployment insurance benefits in Iowa if they voluntarily quit to move to another locality.) However, as this is a combined wage claim, the claimant's qualification and eligibility shall be determined by the state of Texas, where the claim was filed.



**DECISION:**

The October 15, 2020, notice of reimbursable charges for the third quarter of 2020 is modified in favor of the appellant. The employer has filed a timely appeal from the notice of reimbursable benefit charges and a timely response to the notice of wage transfer. The account of the employer shall be relieved of charges based on benefits paid by another state. The claimant's qualification and eligibility shall be determined by the state of Texas, where the claim was filed.



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Stephanie R. Callahan  
Administrative Law Judge

January 19, 2021  
Decision Dated and Mailed

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