

**BEFORE THE
EMPLOYMENT APPEAL BOARD
Lucas State Office Building, 4TH Floor
Des Moines, Iowa 50319
eab.iowa.gov**

ASHLIE R METTLER

Claimant

and

100 CHIRO POWELL PLLC

Employer

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HEARING NUMBER: 22B-UI-06112

**EMPLOYMENT APPEAL BOARD
DECISION**

NOTICE

THIS DECISION BECOMES FINAL unless (1) a **request for a REHEARING** is filed with the Employment Appeal Board within **20 days** of the date of the Board's decision or, (2) a **PETITION TO DISTRICT COURT** IS FILED WITHIN **30 days** of the date of the Board's decision.

A **REHEARING REQUEST** shall state the specific grounds and relief sought. If the rehearing request is denied, a petition may be filed in **DISTRICT COURT** within **30 days** of the date of the denial.

SECTION: 96.5-2-A, 96.5-1

DECISION

UNEMPLOYMENT BENEFITS ARE DENIED

The Claimant appealed this case to the Employment Appeal Board. Two members of the Employment Appeal Board reviewed the entire record. The Appeal Board finds the administrative law judge's decision is correct. The administrative law judge's Findings of Fact and Reasoning and Conclusions of Law are adopted by the Board as its own. The administrative law judge's decision is **AFFIRMED**.

The Board writes further to explain how this case came about. The Claimant filed a claim for benefits with an original claim date of April 4, 2021. This is the second quarter of 2021. The wage history that would be used to calculate her benefits are the wages paid to the Claimant in calendar year 2020. Wages paid by employers in 2021 would not be included in this “base period” used to calculate benefits. The employers who would be chargeable for any benefits are the “base period” employers. This means only employers who paid the Claimant wages in 2020 will be chargeable on this claim, and only these employers would receive bills showing that the Claimant collected benefits on their account. What is important about the base period is that, by law, it excludes the current quarter of filing (the second quarter of 2021), and the quarter before that (the “lag” quarter, here the first quarter of 2021). Here the Claimant’s only base period employer was Urological Associates PC.

When a claimant files for benefits, the question is why that person is unemployed. If she is unemployed because of a disqualifying job separation, she does not get benefits. So, suppose a worker works for several places sequentially. First for Target where she quits for no good reason, and then for Casey's where she is laid off. If she files for benefits after the layoff at Casey's, the question is: is she still considered to be unemployed because of that quit at Target? The statute answers this question by saying that if she earned ten times her weekly benefit amount after quitting Target then the *subsequent* period of unemployment after she gets laid off at Casey's is no longer the result of the Target quit. She is allowed benefits because she reattached to the labor market (by earning 10x at Casey's) after she quit Target but before she filed for benefits. In this scenario, however, Target would not be charged for benefits, and instead the tax supported fund would pay.

Because of this, under the law, when someone files for benefits IWD notifies all the base period employers, and the claimants most recent employer and gives them a chance to protest. 871 IAC 24.2(2). This way if someone worked for their most recent employer outside of the base period (in the lag quarter and the quarter of filing), then the agency will ask that employer why the claimant is unemployed. But when Claimant Mettler filed, she identified Md Billing and Consulting as her most recent employer. She was paid by this firm only in the quarter she filed for benefits, the second quarter of 2021. Meanwhile, she had also worked for 100 Chiro Powel PLLC, but only in the first quarter of 2021 which was the "lag quarter." As a result, 100 Chiro Powel PLLC never got notice that the Claimant had filed for benefits, never got a statement of charges that the Claimant was collecting on its account, and thus never got a chance to protest the payment of benefits. The Claimant did not earn ten times her weekly benefit amount after quitting 100 Chiro Powel PLLC but before seeking benefits.

When the Claimant filed, the Claimant was denied benefits based on the determination that she had quit Urological Associates PC. In our decision in early February 2022, we determined that the Claimant quit for other work, and found the separation at Urological Associates PC was not disqualifying, but that Urological Associates PC would not be charged for benefits. Iowa Workforce examined the claim as a result, and found information about a quit at 100 Chiro Powel PLLC. The agency thus set up a fact finding and issued a decision concerning 100 Chiro Powel PLLC. IWD addressed the issue for the first time after our ruling in February because until then the claim had been locked and the issue at 100 Chiro Powel PLLC was moot. Following our decision, the question of why the Claimant left 100 Chiro Powel PLLC was relevant because she has not yet, so far as Iowa wage records show, requalified since quitting there. This is not a case where 100 Chiro Powel PLLC failed to protest or failed to appeal a statement of charges.

James M. Strohman

Ashley R. Koopmans