

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**ALLISON M SLETTEN**  
Claimant

**ONEOTA RIVERVIEW CARE FACILITY INC**  
Employer

**APPEAL 21A-UI-24562-JC-T**  
**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 10/10/21**  
**Claimant: Respondent (4)**

Iowa Code § 96.6(2) – Timeliness of Protest  
Iowa Code Chapter 95 – Requalification

**STATEMENT OF THE CASE:**

The employer, Oneota Riverview Care Facility Inc., filed an appeal from the October 29, 2021 (reference 03) Iowa Workforce Development (“IWD”) unemployment insurance decision that denied benefits. The parties were properly notified about the hearing. A telephone hearing was held on January 3, 2021. The claimant participated. The employer appeared through Megan Sherman, administrative assistant.

The administrative law judge took official notice of the administrative records. Department Exhibit D-1 was admitted into evidence. Based on the evidence, the arguments presented, and the law, the administrative law judge enters the following findings of fact, reasoning and conclusions of law, and decision.

**NOTE TO EMPLOYER:** To become a SIDES E-Response participant, you may send an email to [iwd-sidesinfo@iwd.iowa.gov](mailto:iwd-sidesinfo@iwd.iowa.gov). To learn more about SIDES, visit <http://info.uisides.org>.

**ISSUES:**

Did the employer file a timely protest?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant established a claim for unemployment insurance benefits with an effective date of October 10 2021. A notice of claim was mailed to the employer’s address of record on October 14, 2021. The employer received the notice of claim.

The notice of claim stated, “[a]s an employer of this claimant within the past 18 months from the effective date of claim, your account may receive charges based upon wages you have paid this claimant unless you provide Iowa Workforce Development with information justifying relief from such charges. Any benefits paid may result in a rate increase to your account.” The notice of claim also contained a due date of October 25, 2021.

The employer faxed its protest (Department Exhibit 1) on October 25, 2021 and received confirmation it had been successfully transmitted (Department Exhibit 1).

Since claimant's separation from employment, claimant has requalified for benefits.

### **REASONING AND CONCLUSIONS OF LAW:**

The administrative law judge concludes that employer has failed to protest within the time period prescribed by the Iowa Employment Security Law.

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 Admin. Code r. 871-24.8(2) provides:

Notifying employing units of claims filed, requests for wage and separation information, and decisions made.

24.8(2) Responding by employing units to a notice of the filing of an initial claim or a request for wage and separation information and protesting the payment of benefits.

a. The employing unit which receives a Form 65-5317, Notice of Claim, or Form 68-0221, Request for Wage and Separation Information, must, within ten days of the date of the notice or request, submit to the department wage or separation information that affects the individual's rights to benefits, including any facts which disclose that the individual separated from employment voluntarily and without good cause attributable to the employer or was discharged for misconduct in connection with employment.

b. The employing unit may protest the payment of benefits if the protest is postmarked within ten days of the date of the notice of the filing of an initial claim. In the event that the tenth day falls on a Saturday, Sunday or holiday, the protest period is extended to the next working day of the department. If the employing unit has filed a timely report of facts that might adversely affect the individual's benefit rights, the report shall be considered as a protest to the payment of benefits.

c. If the employing unit protests that the individual was not an employee and it is subsequently determined that the individual's name was changed, the employing unit shall be deemed to have not been properly notified and the employing unit shall again be provided the opportunity to respond to the notice of the filing of the initial claim.

d. The employing unit has the option of notifying the department under conditions which, in the opinion of the employing unit, may disqualify an individual from receiving benefits. The notification may be submitted electronically.

(1) The Notice of Separation, Form 60-0154, must be postmarked or received before or within ten days of the date that the Notice of Claim, Form 65-5317, was mailed to the employer. In the event that the tenth day falls on Saturday, Sunday or holiday, the protest period is extended to the next working day of the department. If a claim for

unemployment insurance benefits has not been filed, the Notice of Separation may be accepted at any time.

Iowa Admin. Code r. 871-24.35(2) provides:

Date of submission and extension of time for payments and notices.

24.35(2) The submission of any payment, appeal, application, request, notice, objection, petition, report or other information or document not within the specified statutory or regulatory period shall be considered timely if it is established to the satisfaction of the division that the delay in submission was due to division error or misinformation or to delay or other action of the United States postal service.

a. For submission that is not within the statutory or regulatory period to be considered timely, the interested party must submit a written explanation setting forth the circumstances of the delay.

b. The division shall designate personnel who are to decide whether an extension of time shall be granted.

c. No submission shall be considered timely if the delay in filing was unreasonable, as determined by the division after considering the circumstances in the case.

d. If submission is not considered timely, although the interested party contends that the delay was due to division error or misinformation or delay or other action of the United States postal service, the division shall issue an appealable decision to the interested party.

The employer filed a protest in a timely manner on October 25, 2021, but the agency did not receive the fax transmission until October 26, 2021. Employer provided sufficient evidence that a valid fax number was used and the submission was successful. Therefore, the protest shall be accepted as timely.

The administrative law judge further concludes that the claimant has requalified for benefits since the separation from this employer. Accordingly, benefits are allowed and the account of the employer shall **not** be charged.

**DECISION:**

The October 29, 2021, (reference 03) unemployment insurance decision is modified in favor of the appellant. The employer has filed a timely protest and the claimant has requalified for benefits since the separation. Benefits are allowed, provided the claimant is otherwise eligible. The account of the employer shall not be charged.



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January 28, 2022  
Decision Dated and Mailed

jlb/mh