

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

JAMIE HOGUE
Claimant

HERITAGE GROUP LLC
Employer

APPEAL 22A-UI-04567-JC-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 02/22/21
Claimant: Respondent (4)

Iowa Code § 96.7(2)a(6) – Appeal from the Statement of Charges
Iowa Code § 96.6(2) – Timeliness of Protest
Iowa Code Chapter 95 – Requalification

STATEMENT OF THE CASE:

Employer/appellant, Heritage Group LLC., filed an appeal to the Statement of Charges dated February 9, 2022 for the fourth quarter of 2021. After proper notice, a telephone hearing was held on March 24, 2022. Claimant/respondent, Jamie Hogue, did not participate. Employer participated through Mollie Fiebelkorn. Department Exhibit 1 was admitted into evidence. Official notice was taken of the administrative records.

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

If you wish to change the address of record, please access your account at: <https://www.myiowaui.org/UITIPTaxWeb/>.

ISSUES:

Did the employer file a timely appeal to the statement of charges?
Did the employer file a timely protest?
Has the claimant requalified for benefits?

FINDINGS OF FACT:

Having reviewed all the evidence in the record, the administrative law judge finds: Claimant worked for this employer until July 9, 2021. Claimant established a claim for unemployment insurance benefits effective February 22, 2021. The administrative records reflect the claimant has requalified since separation with this employer.

A notice of claim was mailed to the employer's address of record on March 1, 2021. 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

contained a due date of March 11, 2021. Employer did receive the notice of claim. Employer filed its notice of protest to the claim on March 10, 2021 by fax. Unbeknownst to the employer, the fax containing the protest was not received. No fact-finding interview was scheduled, and no initial decision was rendered. Delays were not uncommon at IWD during this period due to continued surge of COVID-19 pandemic related claims.

Employer's first notice that the claim protest had not been received was through the Statement of Charges dated February 9, 2022, which reflected employer would be chargeable for benefits for this claimant. Employer filed its appeal to the statement of charges on February 11, 2022.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the employer filed a timely appeal from the statement of charges and the claimant has requalified for benefits. Benefits are allowed and the employer's account 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(2)a(6) provides:

2. Contribution rates based on benefit experience.
 - a. (6) Within forty days after the close of each calendar quarter, the department shall notify each employer of the amount of benefits charged to the employer's account during that quarter. The notification shall show the name of each individual to whom benefits were paid, the individual's social security number, and the amount of benefits paid to the individual. An employer which has not been notified as provided in section 96.6, subsection 2, of the allowance of benefits to an individual, may within thirty days after the date of mailing of the notification appeal to the department for a hearing to determine the eligibility of the individual to receive benefits. The appeal shall be referred to an administrative law judge for hearing and the employer and the individual shall receive notice of the time and place of the hearing.

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.

The employer presented sufficient evidence that it filed a timely protest to the notice of claim but it was not received by IWD. This was agency error.

The employer then filed its appeal of the statement of charges within the time period prescribed by the Iowa Employment Security Law because it did not receive a decision or fact-finding interview giving it an opportunity to protest the claimant's receipt of benefits chargeable to its account.

The employer filed the appeal to the statement of charges within thirty days making the appeal timely. The claimant has requalified for benefits since the separation from this employer by earning ten times the weekly benefit amount in insured wages following the separation. See Iowa Code §§ 96.5(1)g and 96.5(2)a. Accordingly, benefits are allowed and the account of the employer shall not be charged.

DECISION:

The February 9, 2022, reference 00, statement of charges for the fourth quarter of 2021 is modified in favor of the appellant, which will appear as a credit to the employer's account on a future statement of charges. The employer has filed a timely appeal from that statement of charges, as the notice of claim was not received. 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 and a credit shall be issued on a future statement of charges.



Jennifer L. Beckman
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April 4, 2022
Decision Dated and Mailed

jlb/mh