

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SO YOUNG PARK
Claimant

CLASSIC CONCEPTS FAMILY DENTISTRY
Employer

APPEAL 22A-UI-11433-LJ-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 04/12/20
Claimant: Respondent (1)

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 May 4, 2022, Classic Concepts Family Dentistry (employer) filed an appeal from the statement of charges dated February 9, 2021, reference 01, for the fourth quarter of 2020. The parties were properly notified of the hearing. A telephonic hearing was held at 9:00 a.m. on Friday, June 17, 2022. The claimant, So Young Park, did not appear for the hearing and did not participate. The employer, Classic Concepts Family Dentistry, participated through Dr. Katharine Pins. Department Exhibits D-1, D-2, and D-3 were received and admitted into the record. The administrative law judge took official notice of the administrative record. The employer provided documentation after the hearing that was added to the file.

ISSUES:

Did the employer file a timely appeal from the statement of 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: So Young Park (claimant) filed a combined wage claim for unemployment insurance benefits in the state of Illinois effective April 12, 2020. No notice of claim appears in the administrative record, and no notice of claim would have been issued by Iowa Workforce Development for an out-of-state claim.

Iowa Workforce Development (IWD) mailed a notice of wage transfer to the employer's address of record on June 29, 2020. (Exhibit D-1) The notice of wage transfer states the employer must file a protest within in ten days to have their account relieved of charges. While Dr. Pins initially testified that she had not seen the notice of wage transfer form previously, she later sent the blank document back to Iowa Workforce Development, stating it was one of the documents the employer had in its files. The employer also received several documents from Illinois related to claimant's unemployment insurance claim.

The next document the employer received pertaining to the claimant was the statement of charges mailed on February 9, 2021, for the fourth quarter of 2020. (Exhibit D-2) Dr. Pins gave the statement of charges to the accountant with instructions to handle the issue, and the accountant indicated the issue had been resolved. Subsequently, Dr. Pins learned the accountant never resolved the issue. Therefore, on May 5, 2022, the employer filed an appeal of the statement of charges mailed on February 9, 2021. (Exhibit D-3)

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the employer did not file a timely response to the notice of wage transfer, and it did not file a timely appeal to the statement of charges.

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.

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.

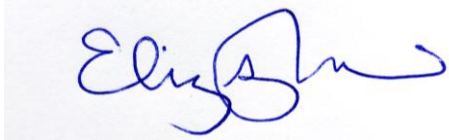
Here, the employer provided information showing it did, in fact, receive the notice of wage transfer form. However, the employer never completed this form, and it never sent a completed form back to Iowa Workforce Development so that the agency could determine whether the employer's protest justified relief from charges. The employer failed to timely respond to the first notice it had that the claimant had filed a claim for unemployment insurance benefits.

Additionally, the employer failed to file a timely appeal from the statement of charges mailed on February 9, 2021, for the fourth quarter of 2020. Dr. Pins made a business decision to delegate the handling of the matter to her accountant. While an employer is entitled to allocate resources and delegate matters to outside third parties as a matter of conducting its business, those business decisions do not relieve it of the responsibility to comply with Iowa Workforce Development deadlines.

Because the employer failed to timely respond to Iowa Workforce Development throughout the process, its account will not be relieved of charges at this point.

DECISION:

The February 9, 2021, reference 01, statement of charges for the fourth quarter of 2020 is affirmed. The employer did not timely respond to the notice of wage transfer, and it did not timely appeal the statement of charges.



Elizabeth A. Johnson
Administrative Law Judge
Unemployment Insurance Appeals Bureau

June 24, 2022
Decision Dated and Mailed

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