

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**JONATHON T WIXON**  
Claimant

**MANN'S ENTERPRISES LLC**  
Employer

**APPEAL 19A-UI-03914-NM-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 02/03/19**  
**Claimant: Respondent (4)**

Iowa Code § 96.6(2) – Timely Protest  
Iowa Code § 96.7(2)a(6) – Appeal from the Statement of Charges  
Iowa Code Chapter 96 – Requalification

**STATEMENT OF THE CASE:**

The employer filed an appeal from the Statement of Charges dated May 9, 2019, which listed charge information for the first quarter of 2019. Due notice was issued and a hearing was held on June 6, 2019. Claimant did not participate. Employer participated through witness Lori Barlow. Department's Exhibit D-1 through D-3 were received into evidence.

**ISSUES:**

Did the employer file a timely protest?  
Is the employer's appeal from the statement of charges timely?  
Has claimant requalified for benefits?

**FINDINGS OF FACT:**

Having reviewed all of the evidence in the record, the administrative law judge finds:

Employer signed up to receive electronic notice of claims through the State Information Data Exchange System ("SIDES system") on August 17, 2017. Employer provided Iowa Workforce Development with Barlows' email address "lori.barlow@us.stores.mcd.com" as the exclusive contact to receive notices of claims. A notice of claim was emailed to the employer's email address of record on February 4, 2019 regarding claimant's initial claim for unemployment insurance benefits which was effective February 3, 2019. A response was due by February 5, 2019. No response was filed; however, the employer did not receive the email from Iowa Workforce Development.

The employer experienced the same issue with its claims for the fourth quarter of 2018. Appeal hearings were held on those claims on March 1, 2019. The administrative law judge advised the employer to contact the SIDES administrator, which Barlow did that same day. The SIDES administrator worked with Barlow to try to identify the issue, including checking her junk mail folder, but the issue could not be identified. The SIDES administrator suggested Barlow

give her an alternate email address to try. That email worked and the issue was resolved going forward.

The SIDES administrator also advised Barlow to logon to the SIDES account to check for outstanding claims. Barlow followed this advice and saw there were several notice of claims, for which it had not filed a response. The employer followed up in an email asking whether it should file its protest, even though it was past due. The employer was advised the protest would be marked as untimely and to wait until it received its Statement of Charges. The employer followed this advice. On May 9, 2019 a Statement of Charges for the first quarter of 2019 was mailed to the employer. The employer filed an appeal to the statement of charges on May 13, 2019. The administrative record shows the claimant has requalified for benefits since the separation from this employer.

### **REASONING AND CONCLUSIONS OF 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 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.

Here, the employer first learned about the notice of claim on March 1, 2019. The employer was advised by an IWD representative not to file a protest, as the deadline had passed. The employer was further advised to wait until it received its first quarter statement of charges to appeal. The employer followed this advice. The administrative law judge concludes that the employer has shown good cause for failing to protest the claim by the prescribed deadline, therefore making the protest timely. The employer's appeal of the Statement of Charges within thirty days is 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 May 9, 2019, Statement of Charges for the first quarter of 2019 is modified in favor of the appellant. The employer has filed a timely protest and a timely appeal from that Statement of Charges. 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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Nicole Merrill  
Administrative Law Judge

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Decision Dated and Mailed

nm/rvs