

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

SARA A KOCH
Claimant

MOSIER DENTAL ASSOCIATES
Employer

APPEAL 21A-UI-06681-SC-T
**ADMINISTRATIVE LAW JUDGE
DECISION**

OC: 03/15/20
Claimant: Respondent (1-R)

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

STATEMENT OF THE CASE:

On February 16, 2021, Mosier Dental Associates (employer) filed an appeal from the statement of charges dated February 9, 2021, reference 02, for the fourth quarter of 2020. A hearing was held on May 12, 2021, pursuant to due notice. Sara A. Koch (claimant) did not respond to the hearing notice and did not participate. The employer participate through Brian Mosier, Dentist/Owner, and Julia Nolte, Office Manager and Dental Assistant. The Department’s Exhibits D1 through D5 were admitted into the record.

ISSUES:

Was the employer’s protest timely?
Was the employer’s appeal from the statement of charges timely?

FINDINGS OF FACT:

Having reviewed all of the evidence in the record, the administrative law judge finds: The claimant was temporarily laid off due to the COVID-19 in mid-March 2020, and filed her claim for unemployment insurance benefits effective March 15. The employer received the notice of claim but did not respond, as they were not protesting her claim for benefits through May 23.

The claimant was able to return to work the week of May 24. The claimant filed for partial benefits each week from May 24 through July 18. The following shows the wages the claimant reported each week and the wages she was paid on a bi-weekly basis:

Week ending	Wages Reported	Wages Paid Bi-Weekly
05/30/20	\$262	
06/06/20	\$356	\$1,162
06/13/20	\$434	
06/20/20	\$365	\$900
06/27/20	\$382	
07/04/20	\$171	1,271
07/11/20	\$439	\$570

The claimant separated from employment on July 9 to take full-time employment. She claimed benefits for the week ending July 18; however, she did not receive those benefits until the week of October 26. The first notice the claimant continued to claim benefits following the return to work was the receipt of the statement of charges mailed February 9, 2021, for the fourth quarter of 2020. The employer filed its appeal of that statement of charges on February 16, 2021.

The issues of whether the claimant was partially unemployed effective May 24 and whether the claimant's separation on July 9 qualifies her for benefits have not yet been investigated or adjudicated by the Integrity or Benefits Bureaus.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow, the administrative law judge concludes the employer did file a timely appeal to the statement of charges.

Iowa Code section 96.6(2) provides, in pertinent part:

Filing – determination – appeal.

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:

Employer contribution and reimbursements.

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 filed its appeal of the statement of charges within the time period prescribed by the Iowa Employment Security Law because it was the first notice the employer had of the continued claim following a return to work. The employer's appeal of that statement within thirty days is timely.

The issues of whether the claimant was partially unemployed effective May 24 and whether the separation on July 9 qualifies her for benefits are remanded to the Integrity or Benefits Bureaus for investigation or fact-finding interview and unemployment insurance decisions.

DECISION:

The February 9, 2021, reference 02, statement of charges for the fourth quarter of 2020 is affirmed, pending the outcome of the remanded issue. The employer has filed a timely appeal from that statement of charges, as the notice of claim was not received.

REMAND:

The issues of whether the claimant was partially unemployed effective May 24, 2020, as delineated in the findings of fact, and whether the separation on July 9, 2020, qualifies her for benefits are remanded to the Integrity or Benefits Bureaus for investigation or fact-finding interview and unemployment insurance decisions.



Stephanie R. Callahan
Administrative Law Judge

May 20, 2021
Decision Dated and Mailed