

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

**JEFFREY M DICUS**  
Claimant

**DOCTOR JOHN'S INC/DOCTOR JOHN'S L**  
Employer

**APPEAL 19A-UI-09214-SC-T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**OC: 07/07/19**  
**Claimant: Respondent (4)**

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 November 22, 2019, Doctor John's Inc. (employer) filed an appeal from the statement of charges dated November 8, 2019, for the third quarter of 2019. A hearing was held on December 17, 2019, pursuant to due notice. Jeffrey M. Dicus (claimant) did not respond to the hearing notice and did not participate. The employer participated through Bonnie Bellamy, District Manager, and John Coil, Corporate President. The Department's Exhibits D1 and D2 were admitted into the record. The administrative law judge took official notice of the claimant's claim and wages histories.

**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 filed his claim for benefits effective July 7, 2019 and his weekly benefit amount is \$172.00. He separated from the employer in the first quarter of 2019. The administrative record shows that after his separation but before filing his claim for benefits he earned more than \$1,720.00 in wages from insured work.

The notice of claim was mailed to the employer's address of record on July 18, 2019. The employer did not receive that notice. The employer's first notice of the claimant's claim for benefits was the receipt of the statement of charges mailed November 8, 2019 for the third quarter of 2019. The employer filed its appeal of that statement of charges on November 22, 2019.

**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, provided the claimant is otherwise eligible, 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 filed its appeal of the statement of charges within the time period prescribed by the Iowa Employment Security Law because it did not receive the notice of claim giving it an opportunity to protest the claimant's receipt of benefits chargeable to its account. The employer filed its 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 his 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 November 8, 2019, statement of charges for the third quarter of 2019 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 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.



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Stephanie R. Callahan  
Administrative Law Judge

December 20, 2019  
Decision Dated and Mailed

src/scn